

THE INFLUENCE OF THE NOBLE HADĪTH

upon the Differences of Opinion
amongst the Jurist Imāms

أثر الحديث الشريف في اختلاف الأئمة الفقهاء

by Shaykh Muḥammad 'Awwāmah

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*To the independent jurists
(al-fuqahā' al-mujtahidūn) of this Ummah.*

*May Allāh Most High have mercy
on them and reward them.*

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TRANSLATOR'S NOTE

AS A METHODOLOGY for translation I have adhered to the principle that a translation into English should be accessible to all English language readers, so that terms which are not English should be rendered into English in some form. I have therefore translated or paraphrased all Arabic terms, including those which may be familiar to some English-speaking Muslims, and added the Arabic transliterations in parentheses. On the whole, I feel this is more likely to ensure that the precise intended meaning of these terms is conveyed to all readers. For terms which have already entered the English language from the Arabic I have used the transliterated form of the Arabic word in order to indicate the correct Arabic pronunciation; hence, *imām* and *ḥadīth*.

Admittedly, this approach is not without drawbacks, and is unlikely to please everyone. In particular, I am aware that for some translators of Islamic literature it is preferable to give precedence to the Arabic terminology in order to encourage its use by English-speaking Muslims, and consequent assimilation into the English language. In response, I hope that my chosen methodology will not detract from this endeavour, but will rather contribute to the correct usage of these terms by English-speakers.

In presenting important or problematic terms in both English and Arabic side by side, I hope to have avoided potential confusion in the following key areas: terms for which there is no direct English equivalent, such as *ijtihād*, which refers to the formulation of independent legal decisions; terms which many English-speaking Muslims use in the Arabic, but which others are unfamiliar with, such as those used in

ḥadīth classification; and terms which in Arabic may support more than one possible meaning, such as *fiqh*, which either has a general meaning of 'understanding', or specifically refers to Islamic jurisprudence.

Stylistically, one might object that copious use of parentheses runs the risk of impeding the flow of the text. However, I am not convinced that this would be any less the case if readers were required to repeatedly look up unfamiliar Arabic terms in a glossary, for example.

In a similar vein, while it was essential to ensure that the translation is readable, I have erred on the side of caution when seeking to convey complex passages idiomatically. I have therefore sometimes reproduced the author's original wording, so that readers are in no doubt of the intended meaning.

Finally, an English-speaking readership may find the numerous Forewords which precede the main body of the work an unusual feature. Nevertheless, they have been included both to emphasise the recognition which the original work received for its level of scholarship; and the importance and relevance of such a work to the Muslim community, both Arabic- and non-Arabic-speaking.

I am extremely grateful to have had the opportunity to translate this work of immense scholarship, and would like to thank the editor and publisher for their invaluable help and patience. I pray that it benefits all who read it, and give thanks and praise to Allāh Most High, for nothing is easy other than that which He makes easy.

MARIAM MADGE CONLAN

PUBLISHER'S NOTE

IN THE NAME OF ALLĀH the Most Beneficent the Most Merciful. I bear witness that there is no god but Allāh and that Muḥammad is the Seal of His Messengers. I would like to begin by acknowledging the great debt of gratitude we owe to our beloved Shaykh Abdul Raheem Limbada, Ustādh of Ḥadīth and Tafsīr (Qur'ān) at Dār al-'Ulūm Bury (may Allah Preserve him), for encouraging us to translate this valuable work. This is closely followed by an expression of enormous thanks to Shaykh Muhammad Amajee, without whose clarity and persistence we may not have fully realised the value of what we had been given. I must also thank Dr Akram Nadwi, whose unhesitating permission for us to translate this valuable text reinforced our recognition of the importance of making it accessible to a non-Arabic speaking readership. For their inestimable contribution in this respect, particular recognition is due to our dear sister Madge Conlan for her methodical and painstaking work of translation, and to Muftī Muhammad ibn Adam for devoting so much of his valuable teaching time to editing the final text. I would also like to thank my dear friend Dr. Mufti Abdur-Rahman Mangera of White Thread Press, whose dedication to this work, despite his heavy schedule, has been exceptional. Without his dedication and passion, the work would not be to the standard it is today. A final acknowledgement goes to Uthman Ibrahim-Morrison for his meticulous attention to detail in the task of proofreading and compiling the index. We hope that by bringing this book to print that the community will benefit from being better able to appreciate the sound reasons for the differences and distinc-

tions that have arisen amongst the noble *fuqahā'*, and the advantages the Muslim Ummah has inherited as a result of their tireless efforts in the service of protecting and preserving the great *madhhabs* on which we all depend. We ask Allāh to accept this work from us and forgive us for any shortcomings, and to make it a means of salvation for all those who have contributed to the process of carrying this work to completion.

YAHYA BATHA
London
21 January 2014

FOREWORD

Mohammad Akram Nadwi

ORIGINALLY FROM ALEPPO in Syria, Shaykh Muḥammad 'Awwāmah now resides in al-Madīnah. He studied ḥadīth with the foremost experts of his time, namely Shaykh Sirāj ad-Dīn al-Ḥalabī and Shaykh 'Abd al-Fattāḥ Abū Ghuddah. He went on teaching and researching ḥadīth and writing scholarly works on it, until he became the great expert and authority in the field that he is. He has enriched Islamic libraries with the scholarly annotated editions he produced of early and classical texts on ḥadīth, narrators of ḥadīth and other disciplines in this field. His work is very highly regarded by his peers. Shaykh Muḥammad Sa'īd at-Ṭanṭāwī says about him: 'I do not know on the face of the earth anyone who is more knowledgeable than him in scholarly editing of the classical works.'

Among the most important works edited by Shaykh Muḥammad 'Awwāmah are: *As-Sunan* of Abū Dāwūd, based on Ibn Ḥajar al-'Asqalānī's original manuscript and several others, and enhanced with valuable explanatory notes; *al-Muṣannaf* of Ibn Abī Shaybah—again based on several of the earliest manuscripts, and Shaykh Muḥammad has added many valuable notes; *Taqrīb at-Tahdhīb* of Ibn Ḥajar al-'Asqalānī, edited from its author's original manuscript and enriched with the marginal notes of the great expert of ḥadīth of the 12th century, 'Abdullāh ibn Sālim al-Baṣrī, and of his student al-Mirghānī; *al-Kāshif* of Imām adh-Dhahabī, edited on the basis of several manuscripts and including the marginal notes of Sibṭ ibn al-'Ajāmī.

Shaykh Muḥammad is the author of a number of books including *Adab*

al-Ikhtilāf fī Masā'il ad-Dīn, and the one being presented here in English translation, *Athar al-Ḥadīth ash-Sharīf fī Ikhtilāf al-A'immat al-Fuqahā'*.

There are many reasons why the great Islamic jurists differed in their opinions and rulings. The major reason is their difference in understanding the texts (i.e., Qur'ān and ḥadīth) and their approaches to them. The differences of the *fuqahā'* have remained for centuries an important concern of Islamic scholarship and have been studied intensively. Among the great scholars who wrote and left behind important works on this subject are: Imām Muḥammad ibn al-Ḥasan ash-Shaybānī, Imām ash-Shāfi'ī, Imām aṭ-Ṭahāwī, Imām aṭ-Ṭabarī, and, in the later period, Shāh Waliullāh ad-Dihlawī. Shaykh Muḥammad's contribution deals particularly with one aspect of the differences among the jurists, namely how their different understanding of the ḥadīth influenced and shaped the differences in their opinions and rulings.

Among the major themes that Shaykh Muḥammad 'Awwāmah deals with in this book are: the status of the ḥadīth in the hearts of the imāms; the differences in how they understood the ḥadīth; their conditions and methods for deploying the ḥadīth to derive legal rulings; their differences in how they assayed the ḥadīths; and their varying degrees of acquaintance with the Sunnah.

Though very concise, this book is astonishingly comprehensive, and unique in providing thorough explanations, which students in the field will find most helpful and effective. It is the result of a lifetime of serious research and profound reflection on the literature on ḥadīth and *fiqh*. It will help people appreciate that the differences among the jurists on certain details and particulars is based upon, grows out of and, overall, strengthens their consensus on the fundamentals of the religion. Indeed, the plurality of opinions is a benefit and blessing for the community, not a nuisance or harm. The author has quoted early scholars and leaders who emphasized the good that flows from tolerance of difference of opinion, and proper respect for those who, striving with the same conscientiousness in respect of the Qur'ān and Sunnah, nevertheless came, on certain matters, to different judgements about how best to express obedience to Allāh and His Messenger, *ṣalla-llāhu 'alayhi wa-sallam*.

Shaykh Muḥammad's method reflects his rigorous research and professionalism. He explains every aspect of the relevant issue properly and

objectively; he does not move from one issue or point to another until he has explained it thoroughly. His arguments rely on the original sources of the Qur'ān, Sunnah, sayings of the Companions and the opinions of the early *fuqahā'* and imāms. He also narrates practical examples and stories from the early generations to illustrate and remind us how tolerant the early Muslim society was and how open toward differences.

The original of this work was widely appreciated. Among the famous scholars who praised it and noted how much they had benefited from it are: the famous Indian expert of the ḥadīth and author of many important works, Shaykh Muḥammad Zakariyyā al-Kāndahlawī; the famous Syrian jurist and thinker Shaykh Muṣṭafā Aḥmad az-Zarqā; and the well-known imām of ḥadīth, Shaykh 'Abd al-Fattāḥ Abū Ghuddah. In the forewords they wrote to the work they strongly recommended it to others.

In our time the relations between Muslims who differ in their judgements are not characterized by tolerance and respect; to the contrary, there is an excess of accusation, aversion and vindictiveness. As a consequence, ignorance, anger and divisions among the Muslims flourish, while the desire to increase knowledge by learning and benefiting from one another fades and perishes. A work like this is urgently needed. It will help to correct the misunderstandings many people have about differences in the practice of Islām. Instead of being dismayed by them, they will come to realize that they are a blessing, if accepted with the humility and tolerance that should characterize those who claim to be serving Allāh. In sum, this book will help students and others to cultivate the right attitude and the right manners in regard to plurality of opinions. The appearance of this work in English will enable it to reach a wider audience. I hope *in shā' Allāh* that it does, for I am certain that whoever reads it will benefit from doing so.

MOHAMMAD AKRAM NADWI

Oxford

15 January 2014

AUTHOR'S INTRODUCTION

to the Second and Fourth Arabic Editions

IN THE NAME OF ALLĀH, the Beneficent, the Merciful. All praise is to Allāh, Lord of the Worlds, who commanded, with his words:

﴿وَمَا كَانَ الْمُؤْمِنُونَ لِيَنفِرُوا كَآفَّةً فَلَوْلَا نَفَرَ مِن كُلِّ فِرْقَةٍ مِّنْهُمْ طَائِفَةٌ لِّيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ﴾

[Nevertheless,] it is not [appropriate] for the believers to go to battle all at once. From every troop of them, a party only should go to battle, that [those who remain] may devote themselves to acquiring a deeper knowledge of the religion, and that they may warn their people when they return to them, so that they may beware.

And peace and blessings be upon the master of the first and last generations, Sayyidunā Muḥammad ibn ‘Abd Allāh, the unlettered Prophet, who said: “This knowledge is carried by the upright of each generation, who reject from it the distortions of the malicious, the claims of the liars, and the interpretations of the ignorant.”¹

To continue:

¹ This [ḥadīth] was narrated by around ten of the Companions (*Ṣaḥābah*), and is varyingly accepted or rejected. Imām Aḥmad is cited as having regarded it as rigorously authenticated (*ṣaḥīḥ*), by which I think he meant that it should be generally accepted (*qabūl*), rather than the technical classification of rigorously authenticated. Al-‘Alā’ī said, in *Bughyat al-Multamis*, p. 34: “A sound (*hasan*), rare (*gharīb*), rigorously authentic (*ṣaḥīḥ*) ḥadīth.”

This, then, is the second—and fourth²—edition of *The Influence of the Noble Ḥadīth*, which I present to the dear readers, the previous print run having long finished, and there having been considerable demand for its republication.

The majority of those who read these pages know well the profound importance and delicacy of the topic discussed here. Every reader may both praise it and criticise it. Nevertheless:

Do not give ear to the views of every side

For you are bound to be both praised and criticised.³

It suffices me that I have presented what I consider to be a defence of the way of the early generations (*salaf*) and later generations (*khalaf*) of the Ummah. I have tried to establish the correct course in the hearts of our youth, and responded to those among them who believe the dubious arguments of people who lived in the age of turmoil in terms of thought, politics and economics and in the age of revolution against everything conventional. They advocated applying this to religious concepts, such that rejection of what is conventional according to our later scholars (*‘ulamā’*), for them became desirable, coveted. Whoever brought this about, or shall we say, was culpable for it, was considered a religious reformer (*mujaddid*), an Islamic missionary (*dā‘īyyah*), who would have titles bestowed upon him, and who would be afforded much publicity...⁴

These brief pages have been met with acceptance and approval by leading people of knowledge and erudition (*ahl al-‘ilm wa’l-faḍl*). Among the most distinguished of these, and whose acceptance and approval I consider an honour, is Our Shaykh, al-‘Allāmah al-Kabīr, the authority for the people of knowledge and erudition, and for the experts and those of exalted rank in the Indian Sub-continent in particular and of all who know him in general; the Shaykh of ḥadīth, Shaykh Muḥammad Zakarīyyā al-Kāndahlawī (who died on the first of Sha‘bān 1402/25 May

² The third edition was a replication of the second edition, to which I am adding the Appendix, found on pp. 213–217.

³ From the verses of Imām Muḥammad Murtaḍā az-Zabīdī, commentator on *Al-Iḥyā’* and *Al-Qāmūs*.

⁴ This is one of the great disasters to have afflicted religious knowledge (*‘ilm*). Detailing it and warning about it are incumbent upon people of knowledge (*ahl al-‘ilm*).

1982, and is buried in al-Baqī‘), may Allāh Most High have mercy on him. He was so gracious in listening to its contents read to him by one of his students, while I was sitting in his presence. He was pleased with it, and said to his student that it would be necessary to read it in full. He was then gracious enough to listen to it in full, while on his sickbed, may Allāh reward him with Paradise (*Jannah*). After this, he condescended towards me even further by providing a few words, which the reader will find shortly.

Furthermore, it was by the grace of Allāh Most High and through his further granting of success that it was examined, for academic purposes⁵, by the educator of the scholars and generations of men, the descendant of fiqh and of the jurists (*fuqahā’*), the proof (al-Ḥujjah) and teacher; al-‘Allāmah Shaykh Mustafā az-Zarqā’, may Allāh Most High preserve him and benefit the institutions of knowledge and fiqh with his sound and healthy life. It received his approval and admiration, praise be to Allāh. He was also so gracious as to provide some generous words, despite his busy academic schedule, may Allāh reward him well. He charged me with ‘building a bridge of knowledge’, which itself is a matter of great importance, hindered by many obstacles in this age in which narration (*riwāyah*) is considered easy, and in which comprehension (*dirāyah*) is overlooked! I ask Allāh Almighty for support and success in it.

The reader will find his remarks at the end of this Introduction.

In as much as I have suffered as a result of [this work], I anticipate the reward with Allāh for my patience, Lord of the Worlds, Master of the Day of Recompense, Judgement and Reward.

They said: It is an open attack on the people of ḥadīth (*ahl al-ḥadīth*). It opposes them and contradicts them!

I take refuge in Allāh from the possibility that my pen has written or my tongue pronounced even a single letter of any of this. However, if appreciation of fiqh and of the jurists (*fuqahā’*), and demonstration of their superiority in understanding the Sharī‘ah correctly—whether they are ḥadīth scholars (*muḥaddithūn*) or scholars of fiqh—is considered opposition to the ḥadīth, then the response is:

⁵ See the Introduction to his work: *Al-Fiqh al-Islāmī wa Madārisuhu*, published by Dār al-Qalam and Ad-Dār ash-Shāmīyyah, first edition 1416/1995.

How often a person criticises a correct statement,
But his complaint results from flawed understanding.

It suffices me that the time will soon come when we stand before the Lord of the Worlds, when Allāh Most High will deliver justice to those wronged by the unjust.

Allāh knows that I wrote these pages only in defence of the noble ḥadīth, the basis of the radiant Sharī'ah, so that the Sharī'ah is not tinkered with in the name of the noble ḥadīth and the immaculate Sunnah.

Is Islamic Jurisprudence (*al-Fiqh al-Islāmī*) not the product of the Book of Allāh and the Sunnah and a unification of their rulings? Then how can defending the product be an attack on the source? However, the matter is otherwise for the ignorant, who are guided by foolishness and stupidity. They view every defence of a jurist (*faqīh*) Imām, or defence of fiqh, as fanaticism (*ta'assub*), and blind following (*taqlīd*), or any other term you choose to denote rejection and derision, so that people turn away from this man (i.e. one of the Imāms) and from benefitting from his knowledge and his books, and so that he who disclaims the corpus of Islamic jurisprudence appears as an emancipator of knowledge and thought. . . ! It is even as if they wish to apply to knowledge (*'ilm*) and religion (*dīn*) false terminology such as: so-and-so is a 'progressive' (*taqaddumī*), and so-and-so is a 'reactionary' (*raji'i*)!

There came to me a young man who works as a mechanic in a textiles factory in the city of Aleppo (Ḥalab). He came after the Night Prayer (*Ṣalāt al-Ishā'*) one long winter's night. He spoke coolly—as is usual for those in his position—and stayed until twelve midnight. However, I was not able to convince him—Allāh be praised—because he was ignorant, and did not understand any of the academic principles which I managed to bring to his attention. The only thing which enabled me to be patient with him for this length of time was fear of Allāh Most High and a feeling of responsibility.

He had with him a document containing the ḥadīth of Imām Muslim in his *Ṣaḥīḥ* about performing ablution (*wuḍū'*) after eating camel meat. It also contained what an-Nawawī رحمہ اللہ said concerning his choosing to act upon the ḥadīth despite it contradicting the position of his school of law (*madhhab*). It included the statement: 'If the ḥadīth is rigorously

authenticated (*ṣaḥīḥ*), then it is my position (*madhhab*). It also mentioned al-Kamāl ibn al-Humām and 'Abd al-Ḥayy al-Laknawī, may Allāh have mercy on them both.

This 'worker-scholar' (!) wanted to enforce upon Abū Ḥanīfah and ash-Shāfi'ī the opinion that performing ablution after eating camel meat is obligatory, because they both said: 'If the ḥadīth is rigorously authenticated, then it is my position,' and the ḥadīth is rigorously authenticated.

Thanks to his 'knowledge', when he read to me the name of Ibn al-Humām, he read it: 'Ibn al-Hammām!' And when he read the name of al-Laknawī, he read it: 'al-Kanawī'!

I ask the readers, by Allāh: What devotee of the Sunnah of the Noble Prophet ﷺ, and of the Fiqh of Islām which proceeds from the Book of Allāh and the Sunnah, will bear with patience these tinkers, deceivers and distorters, and those who are misled by their influence!

Who is the real fanatic (*mu'taṣṣib*)? The one who challenges the activities of these deceivers who are themselves deceived, and corrects their understanding of this religion (*dīn*)? Or the ones deceiving and misleading our youth, encouraging them to assume the station of the independent jurists (*mujtahidūn*) and to practise independent legal reasoning (*ijtihād*), leaving them to tinker with the sanctity of Islām?

This is one of the calamities of these irresponsible blunderers: that they read the opposition of Imām an-Nawawī, for example, and as-Subkī and their like, to their Shāfi'ī school of law (*madhhab*) [on a particular issue]; the opposition of al-'Aynī and Ibn al-Humām and their like, to their Ḥanafī school; and the opposition of Ibn Taymīyah and Ibn al-Qayyim and their like, to their Ḥanbalī school. Then they argue based on this that the independent jurist (*mujtahid*) Imāms make mistakes, and that it is not permissible to follow them. We are therefore obligated to oppose them, just as they were opposed by these scholars (*'ulamā'*). However, while this is correct in principle, it is flawed in the sense that it is an analogy containing dissimilarity; for which of these upstarts is comparable to an-Nawawī, as-Subkī, al-'Aynī, Ibn al-Humām, Ibn Taymīyah, and Ibn al-Qayyim?

Another one walks among the people, denouncing and condemning, whereas if he wished to write regarding an issue, or speak about it, he would not go beyond consulting one book—that is, if he knows how to consult it and read it correctly, and to understand correctly what he has read!

A third is in the habit of producing, from time to time, a book which he has written or edited, and dedicated its introduction to insults, abuse and slander. He does not want anyone in the world to take hold of a pen without deferring to him and inheriting his slanderous remarks and obscenities. His arrogance has become so deep rooted that it prevents him from viewing anyone else as capable of knowledge, opinion or understanding.

The following statement, reported from some of the people of knowledge (*ahl al-ʿilm*), is applicable to his method: 'You open for the people the door of independent legal reasoning (*ijtihād*), and you compel them to follow you!'

He filled with these obscenities eight pages of his Introduction to the work of Nuʿmān al-Ālūsī: *Al-Āyāt al-Bayyināt*, showing that in this he is unrivalled by any of his colleagues or peers—except those who graduated from his school and studied under him in learning his insults.

In what he wrote there is no knowledge to respond to or to be understood, apart from the remarks of Ibn aṣ-Ṣalāḥ and at-Taḳī as-Subkī, may Allāh Most High be pleased with them both. These I have responded to—praise be to Allāh—and I have exposed his ignorance⁶, for he invited upon himself confirmation of what those who know him say about him: 'He does not understand the science of the principles of jurisprudence (*ʿilm al-uṣūl*) in the least.'

Furthermore, I saw in another introduction to another book, that he interpreted a remark of mine, without knowledge of what preceded or followed it, or its context. I do not know whether it is ignorance or feigning ignorance! [In any case,] the sweeter of these two is bitter.⁷

Fourth to be mentioned, although he counts as third since he is a duplicate and an echo of the one preceding him, since he repeated his obscenities and reiterated his slander, claiming that this book has been warned against by the scholars (*ʿulamāʾ*)!! This is despite the fact that this book—praise be to Allāh—represents the opinion of the majority of the Ummah, its scholars and educated persons through the centuries.⁸

Then he claims to be liberated—not a follower or a fanatic! I do not

⁶ Pp. 88–89 and 112–118.

⁷ P. 89.

⁸ See the Appendix, pp. 213–217, to see how the focus of this book conforms to the Appendix;

know what caused him to turn away from and change his ideas from what they were previously! The truth of this is with He who knows that which is hidden and that which is visible (*ʿĀlim al-ghayb wa'sh-shahādah*).

To continue:

This is what Allāh Most High has enabled me to add, establishing that which I believe to be the truth and demolishing the falsehood which I seek to avoid. I implore the Grace of Allāh the Beneficent, that He instil in it guidance for the hearts of the just, and those who read it intending to benefit from it. As for those who read it with obstinacy or criticism, it suffices that they will be deprived of benefit, and I have no concern for them after today:

﴿فَأَمَّا الزَّبَدُ فَيَذْهَبُ جُفَاءً وَأَمَّا مَا يَنْفَعُ النَّاسَ فَيَمْكُثُ فِي الْأَرْضِ﴾

As far as the scum is concerned, it passes away as dross; but that which is of benefit to man abides on earth (13:17).

Oh Allāh, forgive us, and our parents, our Shaykhs, our families, our children, our descendants, and all the Muslims. May Allāh bestow peace and blessings on our master, Sayyidunā Muḥammad, on his family, his Companions, and those who follow him in righteousness until the Day of Judgement. Praise be to Allāh, Lord of the Worlds.

Written by

MUḤAMMAD ʿAWWĀMAH

al-Madīnah al-Munawwarah

16 Shaʿbān 1406 | 26 April 1986

22 Shaʿbān 1416 | 13 January 1996

that they are in fact from the same source. Then judge: Was it the scholars or the ignorant who warned against this book?!

FOREWORD

by Mawlānā Muḥammad Zakarīyā al-Kāndahlawī

(May Allāh Most High have mercy on him)

IN THE NAME OF ALLĀH, the Beneficent, the Merciful. Praise be to Allāh who constantly bestows upon us His grace and continually grants us His blessings. Peace and blessings be upon the master of His creation, Muḥammad, whose goodness and beauty were perfect; and whose endeavour and trials were universally for the guidance of all creation; and upon his family and Companions, who acquired the light of his ḥadīth, the radiance of which was acquired by them; and upon those who follow him with excellence, until the Day of Judgement.

To continue:

Truly, Allāh Most High has endowed this Ummah with preservers of the Clear Book (*Al-Kitāb al-Mubīn*), and of the *sunan* (plural of *Sunnah*) of the master of the first and last generations, ﷺ. From among these, he has distinguished with the greatest honour the masters of ḥadīth and fiqh, who differentiated between the strong (*qawī*) and the weak (*ḍaʿīf*), and deduced from the sound (*ḥasan*) and the rigorously authenticated (*ṣaḥīḥ*). They thereby derived rulings for that about which they found no explicit texts and selected that which they regarded as worthy of preference; having studied the narrations, reflected upon them, and taken time to deliberate and discern the abrogating (*nāsikh*) and the abrogated (*mansūkh*) ḥadīths. They penetrated the depths of the words and engrossed themselves in acquiring the meanings. They skilfully produced chapters

and sub-chapters, and derived the rules from the sources. May Allāh Most High shower them with torrents of mercy and favour, and make them dwell with comfort and ease in the gardens of Paradise.

They played a great role in reconciling that which was contradictory, allocating preference between that which was conflicting, clarifying that which was obscure and elucidating that which was vague. However, despite the unity of their objective and the agreement of their hearts, they differed on many issues and rulings due to the differing modes they employed for allocating preference (*tarjih*) and their varying methods of deduction (*istinbāt*).

This difference of opinion was natural and necessary and involved no blame or disgrace. Rather, it is a mercy for the Ummah, as stipulated by the distinguished scholars (*‘ulamā’*).

Since people feel enmity towards what they do not understand, those who had no concern with knowledge (*‘ilm*) and understanding (*fahm*) began to object to the jurist (*fuqahā’*) Imāms, and criticise them harshly. For this reason, both earlier and later scholars compiled books and treatises on the reasons for this difference of opinion, such as: *Raf‘ al-Malām ‘an al-A’immat al-A‘lām*, by the great Ḥāfiẓ, the learned and discerning critic, Aḥmad ibn ‘Abd al-Ḥalīm ibn Taymīyah al-Ḥarrānī, and *Bidāyat al-Mujtahid*, by al-Qāḍī Abū’l-Walīd ibn Rushd al-Qurṭubī, may Allāh Most High have mercy on them both.

I have also written a treatise on this subject in Urdu, which I compiled in the prime of my youth and titled: *The Differences of the Imāms (Ikhtilāf al-A’immah)*. The people derived much benefit from it, for which Allāh Most High be praised.

In this era, credit is due to our learned brother, al-‘Allāmah ash-Shaykh Muḥammad ‘Awwāmah, since he gave a valuable lecture on this subject three years ago in Ar-Rawḍah Mosque in Aleppo. He then produced from this a treatise, following reduction and finalising, which he titled: *The Influence of the Noble Ḥadīth upon the Differences of Opinion amongst the Jurist Imāms (Athar al-Ḥadīth ash-Sharīf fī Ikhtilāf al-A’immat al-Fuqahā’)*.

Since I am hardly able to read for myself, due to weak sight and the illness of old age, I had it read to me by some of those who are dear to me. I found it very useful and that, despite its brevity, it collates supreme benefits, embedding therein lofty gems.

In benefitting from it my soul delighted and my heart was gladdened. Every teacher and student ought to study it, for it averts deviation and oppression and delivers from the criticism directed at the Imāms by those who harbour enmity towards them and those who are deprived [of good].

I ask Allāh Most High that He grants us, and all Muslims, success in what He loves and what pleases Him; that He makes us live according to the way of the one who came with light and guidance, and makes us die observing his religion (*dīn*) with which he has lit the darkness.

May Allāh Most High bestow blessings upon the best of His creation, Muḥammad, his family and all of his Companions.

The poor slave of Allāh
MUḤAMMAD ZAKARĪYYĀ IBN
MUḤAMMAD YAḤYĀ AL-KĀNDAHAWĪ
Edited in al-Madīnah al-Munawwarah
15 Sha‘bān 1401 | 18 June 1981

FOREWORD

By [Shaykh] Muṣṭafā Aḥmad az-Zarqā'

PRAISE BE TO ALLĀH, who said in this clear verse of His Book:

﴿فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِّنْهُمْ طَائِفَةٌ لِّيَتَفَقَّهُوا فِي الدِّينِ...﴾

From every troop of them, a party only should go to battle, that [those who remain] may devote themselves to acquiring a deeper knowledge of the religion. . . (9:122).

Peace and blessings be upon the last of His Prophets, Muḥammad, who said: "May Allāh make radiant the person who hears something from us"—and in another narration: "[whoever hears] a ḥadīth"—"then transmits it as he heard it; for the one who is informed of it may understand it better than the one who heard it. . ." In another narration: "the bearer of fiqh [i.e. religious knowledge] may convey it to someone who has greater understanding (*fiqh*) than him; and the bearer of fiqh may not be a man of understanding (*faqīh*).” It was narrated by at-Tirmidhī.

He also said, of his Companions (*Ṣaḥābah*): "The most knowledgeable of them regarding the permitted and the prohibited (*al-ḥalāl wa'l-ḥarām*) is Mu'adh." It was also narrated by at-Tirmidhī.

He also said: "And the most knowledgeable of them concerning judgments is 'Alī." It was narrated by Ibn Mājah.

These noble citations and their like indicate that knowledge of the religion (*dīn*) requires more than just preserving and memorising its texts. Rather, this is merely the first step towards a higher level, which is acquir-

ing a deep understanding (*tafaquh*) of these texts. This is the desired level, and a level within which people differ, including the Companions—may Allāh be pleased with them—and those after them.

To continue:

I have studied the book: *The Influence of the Noble Ḥadīth upon the Differences of Opinion amongst the Jurist Imāms (Athar al-Ḥadīth ash-Sharīf fi Ikhtilāf al-A'immat al-Fuqahā)*, by the great teacher, Shaykh Muḥammad 'Awwāmah, and found it to be a book of great value, like its author, may Allāh preserve him.

I consider this valuable book to be a complete clarification of what is indicated by the profound Prophetic ḥadīth: "the one who is informed of it may understand it better than the one who heard it". The writer has 'hosted'—so to speak—scores of the great scholars ('ulamā') of Islām throughout the ages, quoting their excellent statements regarding the understanding (*fiqh*) of the Prophetic ḥadīth; providing clear examples from their *fiqh* on many issues and elucidating the reasons for their differences of opinion in deducing the secondary rulings.

I was struck by the learnedness of the book, which indicates the breadth of knowledge of its author, his depth of understanding, and the superiority of his methodology. This is such that, despite its brevity, the book contains [a comprehensiveness] which the researcher rarely finds in other books.

My admiration for the book was increased by the fact that its author is a master in terms of knowledge of the Prophetic Sunnah and its narrators, who has previously edited *Taqrīb at-Tahdhīb*, by al-Ḥāfiẓ ibn Ḥajar, *Al-Kāshif*, by Imām adh-Dhahabī, and other works of their ilk. In this book, he is building a bridge between the two disciplines of narration (*riwāyah*) and understanding (*dirāyah*).

I can say in truth: It is a book which will deepen the reader's understanding of ḥadīth and their meanings. May Allāh reward him with the best of rewards for his knowledge (*ilm*) and his religion (*dīn*), and make it beneficial.

It is therefore fitting that I conclude by quoting this eloquent remark on the differences of opinion amongst the Imāms and its virtues, which distinguishes between difference of opinion which is damaging and

divisive for the ranks of the Ummah, and difference of opinion which is useful and beneficial. It is by Imām Abū Bakr ibn al-'Arabī, in his *Al-Aḥkām aṣ-Ṣughrā*, in his discussion of the words of the Most High:

﴿وَاَعْتَصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا﴾

And hold fast together to the rope of Allāh, and be not divided. . . (3:103)

. . . until the end of the verse (*āyah*). Here, he ﷺ said the following: "And be not divided" (*wa lā tafarraqu*) means in terms of beliefs (*'aqā'id*). It has also been said that the meaning is: "Do not envy one another" (*lā tahāsadū*). . . And it has been said that the meaning is: not to accuse one another of wrongdoing in secondary aspects of law (*furu'*)—that is, no one is to accuse his fellow of wrongdoing; and "allowing each other to persist with his independent reasoning (*ijtihād*), since all are holding fast to the rope (*ḥabl*) of Allāh i.e. the Qur'an, and acting according to its guidance. The division (*tafarruq*) prohibited is that which leads to trials (*fitnah*) and splitting [of the Ummah]. Differences of opinion regarding the secondary aspects of law, on the other hand, is one of the beauties of the Sharī'ah, in accordance with the saying [of the Prophet ﷺ]: "If the arbitrator formulates an independent legal opinion (*ijtihād*) and he is correct, then he has two rewards; and if he formulates an independent legal opinion and he is mistaken, then he has one reward."⁹

This valuable book, despite its merits, is not free from points which have given rise to controversy and discussion. The writer, may Allāh preserve him, focused on the permissibility of acting upon weak (*dā'if*) ḥadīth with certain conditions, which he discussed. He demonstrated comprehensively the opinions of the scholars ('ulamā') on this matter. Nevertheless, the issue of acting upon a weak ḥadīth with conditions stipulated by the one who is acting upon it, remains a cause of dispute and is not incontrovertible. This is despite the reality being that there exists no school from the four schools of law (*madhāhib*) whose jurists (*fuqahā*) do not use as evidence some weak ḥadīths. [These ḥadīths] the

⁹ Agreed upon. The two Shaykhs [i.e. Bukhārī and Muslim] and others extracted it (See *Al-Aḥkām aṣ-Ṣughrā*, edited by Sa'īd Aḥmad I'rāb, a publication of the Islamic Educational, Scientific and Cultural Organisation, ISESCO), 1412/1991, p. 153, (1 ج).

jurists have considered acceptable, such as the ḥadīth prohibiting debt-for-debt transactions (*bay' al-kāli' bi'l-kāli'*).

Finally, I call on Allāh to increase the benefit of this important book and reward its author with the best of rewards.

May Allāh Most High bestow blessings upon our master Sayyidunā Muḥammad, the Messenger of Allāh and Imām of Guidance, upon his family and his noble and pure Companions, and those who follow their Sunnah and are guided by their guidance.

Signed
MUṢṬAFĀ AḤMAD AZ-ZARQĀ'
15 Muḥarram 1416 | 14 June 1995

THE INFLUENCE OF THE NOBLE ḤADĪTH

upon the Differences of Opinion
amongst the Jurist Imāms

AUTHOR'S INTRODUCTION

to the First Edition

IN THE NAME OF ALLĀH, the Beneficent, the Merciful. Praise be to Allāh, Lord of the Worlds, and the best of blessings and most perfect salutations upon our master, Sayyidunā Muḥammad, the Messenger of Allāh, Imām of the independent jurist (*mujtahid*) Imāms, the master of those who guide and those who are guided, and upon all his family and Companions.

To continue:

The starting point for this work was a lecture which I gave in Rawḍah Mosque in Aleppo—may Allāh fill it with knowledge and endeavour—on the evening of Thursday 3rd of the good month of Ṣafar, 1398/1977.

Many of the brothers wished to print it and make it available to the general readership, in order to meet the need which many of them have [for this knowledge], answer many of their queries, and as guidance for the confused among them, Allāh Almighty willing.

I responded to their wish, adding to it the examples, proofs and clarifications which Allāh Almighty facilitated. However, the main aspects of the lecture I left unchanged, without adding to them.

Observing an academic tradition of our pious predecessors, I showed what I wrote to some of my learned Shaykhs, including my master, the illustrious theologian (*mutakallim*), exegete (*mufassir*), ḥadīth expert (*muhaddith*) and adept of Sufism, Faḍīlat al-ʿAllamah al-Muḥaqqiq al-Ustādh Shaykh ʿAbd Allāh Sirāj ad-Dīn, may Allāh Most High keep

him well and in good health. He honoured me with his approval and praise for it.

I then sent it to Riyad, to my master the ḥadīth expert, expert in legal fundamentals (*uṣūlī*) and jurist (*faqīh*), the bastion of the Sharī'ah, Faḍīlat al-'Allāmah al-Muḥaqqiq al-Ustādh, Shaykh 'Abd al-Fattāḥ Abū Ghuddah, may Allāh Most High keep him well and in good health. He instructed, benefitted and honoured me by writing a few words. I ask Allāh, out of His grace and magnanimity, to make me worthy of them. His words are as follows:

In the Name of Allāh the Beneficent the Merciful. Praise be to Allāh. It was not feasible for me to read this valuable work, *The Influence of the Noble Ḥadīth upon Differences of Opinion among the Jurist Imāms* ﷺ, except in Yemen. I therefore read it in one sitting, in the city of San'a, on the morning of Saturday 2nd of the blessed month of Ramaḍān, 1977/1398. I have derived from it some valuable benefits and call upon Allāh to give its author unceasing success, and increasing ascendancy, that he may refute those who have deviated from the clear path by calling people to confusion regarding the followed Imāms, who disregard the Imāms, and who undertake to tear apart the Ummah.

Praise be to Allāh for what he has enabled its author, the brilliant and perspicacious scholar, to achieve. Glory be to Him, He is the Benefactor and it is He who bestows success. We ask of Him, the Sublime, to direct and guide us to the Straight Path. May Allāh bestow peace and blessings upon our master and Prophet, Muḥammad, on his family, Companions and Followers, and upon the independent jurist (*mujtahid*) Imāms, who are revered by every scholar, and every upright and honest person. Ameen.

Written by the poor servant of the Most High,
the exile from his homeland

'ABD AL-FATTĀḤ ABŪ GHUDDAH

May Allāh return him to his homeland safely
and in good health, from His Bounty and Munificence.

On Thursday 26th Shawwāl in the year mentioned, there arrived in our city of Aleppo the noble and distinguished ḥadīth expert, Faḍīlat

al-'Allāmah al-Kabīr, Mawlānā Shaykh Ḥabīb ar-Raḥmān al-A'zamī, one of the great scholars of India, may Allāh keep him well and in good health. I was glad that I had not yet sent the work to be printed. I read it in full in his noble presence, and he honoured me by listening to it. He was pleased with it and said after I had finished reading: "I approve of every letter which has been read to me."

Praise be to Allāh for what He has enabled and inspired. I ask Him to make it a treasure for me on the Day when we arrive before Him, Most High; and to make it abundantly beneficial, for it is He who bestows success. Praise be to Allāh, Lord of the Worlds.

Written by

MUḤAMMAD 'AWWĀMAH

Aleppo

Jam'iat at-Ta'lim ash-Shar'i

2 Dhū'l-Qa'dah 1398 | 5 October 1978

PREAMBLE

UNDERSTANDING THE REASONS for differences of opinion amongst the jurists (*fuqahā'*) is a matter of utmost importance in the life of every Muslim, in terms of both knowledge and practice.

In terms of knowledge, it is important because it draws a Muslim's attention to the expertise of the Imāms of Islām ﷺ [such as the four main Imāms of Islam and their students] in deriving the rulings of this True Religion (*ad-Dīn al-Ḥanīf*) from its original source: the Book of Allāh Most High and Sunnah of his noble Prophet ﷺ.

It also draws his attention to the great effort they exerted in this process of derivation, as well as in other areas, an exploration of which the current topic does not allow for.

As for the practical life of a Muslim, such an understanding is important because it engenders in him a state of serenity and trust towards the Imāms of his religion, to whom he has surrendered the reins of his affair in matters of worship (*'ibādāt*), dealings (*mu'āmalāt*), morals (*akhlāq*) and conduct (*sulūk*). As such they act as intermediaries (*wāṣitah*), i.e. interpreters of the law and not legislators, between a Muslim and his Lord Most High in all of these areas.

This state of tranquillity only occurs after a Muslim has become acquainted with the reasons for differences of opinion among the Imāms, to the extent that he is able, and realises that they have only disagreed as a consequence of their striving for what is right and true. They did so having established principles (*uṣūl*) and formulated precepts (*qawā'id*);

hence, they agreed in all that could be agreed upon and disagreed only when disagreement was unavoidable.

In doing so, they have done no wrong, since they are students of truth and seekers of proof. They would not have opposed each other out of tribalism, selfishness, arrogance or through seeking self-promotion or fame; rather, they were compelled to do so by the evidence that they had at their disposal and how they understood this evidence.

Understanding this matter becomes all the more important when we see that there is a sweeping current deviating away from the true reality, leading some to distrust the Imāms and to contemptuously distort their educational and practical biographies, deeming those who do not know what they are talking about as judges of these immovable mountains, the cornerstones of the religion of Islām, who have long been the pride of Islamic thinkers, jurists, muftīs and judges.

This topic: the reasons for differences of opinion among the jurists (*fuqahā'*) ﷺ, provides an introduction to one dimension of formulating independent judgements in legal or theological questions (*ijtihād*). Discussion of it has consequently proved difficult, lengthy and many-sided, and it has therefore been necessary to focus on only one aspect of the discussion here.

The aspect which I intend to discuss, for which I seek help from Allāh Most High, is: "The influence of the noble ḥadīth upon the differences of opinion amongst the jurist (*fuqahā'*) Imāms ﷺ."¹⁰

It will be presented as follows:

Preface: The status of the noble ḥadīth in the hearts of the Imāms.

¹⁰ This title may well anger those who have appointed themselves guardians of the pure Sunnah from amongst the ignorant and the foolish! This is because they understand difference of opinion as an evil and an error; which means that through my use of this title, I have made the Sunnah responsible for this evil! I ask forgiveness from Allāh Most High for anything that does not please Him and I take refuge in His Majesty from flawed understanding!

In addition, difference of opinion [among the *fuqahā'*] is an abundant mercy to this Ummah, as I clarified in detail in my book which in the first edition I entitled: *Pages on the Etiquette of Giving Legal Opinions* (*Ṣafahāt fī Adab ar-Ra'ī*), and in the second edition: *The Etiquette of Holding Different Opinions in Issues of Knowledge and Religion* (*Adab al-Ikhtlāf fī Masā'il al-'Ilm wa 'd-Dīn*). I nevertheless chose the current title and sub-title to remove the veil from the intellects of those who are in doubt as to how the Imāms engaged in independent legal reasoning (*ijtihād*) could have had differences of opinion, but only from the perspective of the noble ḥadīth.

The First Reason: When does a noble ḥadīth qualify for being acted upon?

The Second Reason: Differences among the Imāms regarding their understanding of the noble ḥadīth.

The Third Reason: Their differing methods in dealing with apparently contradictory aspects of the Sunnah.

The Fourth Reason: Differences of opinion among them due to their varying degrees of acquaintance with the Sunnah.

In addition, there are misgivings which many people feel perplexed in understanding and responding to. These I will deal with in the appropriate sections from those mentioned above.

I will summarise the most important points at the end of the work in *shā' Allāh taālā*.

PREFACE

The Status of the Noble Ḥadīth in the Hearts of the Imāms

A SHORT INTRODUCTION is necessary, throwing light on the status of the noble ḥadīth in the hearts of the Imāms ﷺ, in order to draw conclusions about the strength of their devotion in adhering to them and firm desire to act in accordance with them.

Imām Abū Ḥanīfah ﷺ said: "People will remain in righteousness as long as there are some among them who seek ḥadīth, for if they seek knowledge without ḥadīth, they will be corrupted."¹¹

He also said: "Take care not to make statements about the religion of Allāh Most High based on individual judgement (*ra'i*). It is incumbent upon you to follow the Sunnah, and whoever departs from it will go astray."¹²

Imām al-Shāfi'i ﷺ said: "Which land will support me if I transmit a ḥadīth from the Prophet ﷺ, proclaiming other than what it says?"¹³

Once he transmitted a ḥadīth, to which al-Ḥumaydī, Shaykh of al-Bukhārī, said: "Do you adhere to it?" Al-Shāfi'i replied: "Did you see me come out of a church with a rope (*zunnār*) [around my waist], that I would hear a ḥadīth of the Messenger of Allāh ﷺ and not proclaim it?"¹⁴

And how wonderful is Imām Mālik's description of the Sunnah when

¹¹ Al-'Allāmah ash-Sha'rānī ﷺ, *Al-Mizān al-Kubrā*, vol. 1, p. 51.

¹² *Al-Mizān al-Kubrā*, vol. 1, p. 50.

¹³ As-Subkī ﷺ, *Ma'nā qawl al-Imām al-Muṭṭalibī: Idhā Ṣaḥḥa 'l-Ḥadīth fa huwa Madhhabī*, Introduction; and many other sources.

¹⁴ Ibid; many have transmitted it from Al-Shāfi'i, to the extent that at-Tāj as-Subkī ﷺ said

he says: "The Sunnah is like Noah's Ark: whoever boards it is saved, and whoever misses it is drowned."¹⁵

Imām Ahmad rahimahillāhu said: "Whoever rejects a ḥadīth of the Messenger of Allāh ﷺ is on the verge of ruin."¹⁶

He also said: "I am not aware of people being in more need of studying ḥadīth than in this era." This was in reference to the time of Imām Ahmad, who passed away in the year 241/855! One of his followers responded, asking: "How is that?" The Imām replied: "Innovations (*bid'ah*) have emerged, and whoever does not have a ḥadīth [to support his position] will fall into them."¹⁷

These are merely a few statements out of the many which abound in the biographies of the Imāms, and it is noticeable that they all confirm a single view: the necessity of adhering to the Prophetic Sunnah; and that whoever learns and implements the Sunnah will succeed; whereas whoever shuns it, this is a sign of his failure and his deviation.

If this attitude towards the Imāms becomes established in the heart and mind of a Muslim, alongside his belief in their leadership in terms of knowledge, then this will enable him to examine the reasons for their differences of opinion about the laws (*ahkām*) of al-Sharī'ah, knowing that each of them was trying his utmost to emulate the Illustrious Sunnah.

On the other hand, if someone does not believe in the leadership of the Imāms, saying rather: 'They are men, just as we are'; or does not believe that they devoted themselves wholeheartedly to searching for evidence in support of what they said—to the same degree that a drowning man would seek a means of salvation; then he would find no motivation within himself to study this topic; rather, he would hasten to attack them, claiming he was above them in learning, all because he lacked this attitude towards them.

This brings us to the discussion of reasons for disagreement among the Imāms.

in his *Ṭabaqāt al-Kubrā*, vol. 3 p. 138, last translated by al-Rabī' al-Murādī: "It is as if it happened on many occasions."

¹⁵ Ḥāfiḍ as-Suyūṭī rahimahillāhu, *Miftāḥ al-Jannah fī 'l-Ihtijāj bi 's-Sunnah*, Conclusion.

¹⁶ Ibn al-Jawzī, *Manāqib al-Imām Ahmad*, p. 182.

¹⁷ *Ibid*, p. 183.

THE FIRST REASON

When does a noble ḥadīth qualify for being acted upon?

Understanding the first reason for differences of opinion among the jurists (*fuqahā'*) requires a discussion of four key points, two of which relate to the chain of transmission (*sanad*) of the ḥadīth and two of which relate to the text (*matn*).

These points are as follows:

1. Differences of opinion regarding some of the conditions for ḥadīth authentication.
2. Whether acting upon a ḥadīth is conditional upon its authenticity.
3. Establishing the noble Prophetic wording of the ḥadīth.
4. Establishing its correct Arabic vocalisation.

I will treat the first point briefly to avoid digressing too much from the subject.

1. DIFFERENCES OF OPINION REGARDING SOME OF THE CONDITIONS FOR ḤADĪTH AUTHENTICATION

The general body of scholars (*jumhūr*) agree that there are five conditions for a ḥadīth to be considered rigorously authentic: continuity of the chain of transmission; establishing the uprightness of the narrator;

establishing the accuracy of the narrator; and soundness of the chain of transmission and text in that they are free from irregularities and from any serious defects.

Continuity of the Chain of Transmission

Differences of opinion actually occurred among the *muḥaddithūn* (ḥadīth narrators) themselves about the manner in which the condition of continuity (*ittiṣāl*) should be established. This was the case in what they came to refer to as "the issue of meeting" (*mas'alat al-liqā'*) between a transmitter and his shaykh. Imām al-Bukhārī and others stipulate that these two must have met at least once, while Imām Muslim and others—Muslim actually claimed that there was consensus on his view¹⁸—stipulate only the possibility that a meeting could have occurred between them, not its establishment as fact.

Accordingly, [ḥadīths] which Muslim and those who agree with him consider rigorously authenticated (*ṣaḥīḥ*) based on this concept of continuity of the chain of transmission, are not considered rigorously authenticated by al-Bukhārī. Those jurists (*fuqahā'*) who follow the opinion of Muslim regarding continuity of the chain of transmission may use as evidence a ḥadīth whose chain of narrators fulfils the criteria for continuity according to Muslim, saying: the ḥadīth is rigorously authenticated in this matter. On the other hand, those scholars (*'ulamā'*) who follow al-Bukhārī's opinion will disagree and not consider it rigorously authenticated. Consequently, they will not consider it an authoritative source from which to derive legal opinions and will hold all opinions based on such sources to be invalid.

Also related to the issue of continuity [of the chain of transmission] is the case of the incompletely transmitted (*mursal*) ḥadīth. Here the scope for difference of opinion is greater than in the previous example.

A *mursal* ḥadīth, one that has been attributed to the Messenger of Allāh

¹⁸ Muslim, Introduction, vol. 1, p. 130, with Commentary by al-Nawawī. Al-'Allāmah 'Alī al-Qārī related this from the general body of scholars in his commentary on *Musnad al-Imām Abī Ḥanīfah*, p. 5, acknowledging the disagreement of al-Bukhārī and those with him as well as those placing even greater conditions [on a ḥadīth's authenticity with respect to continuity of the chain of transmission].

by a Follower (*Tābi'i*), i.e. from the generation born after the death of the Prophet ﷺ, does not have a continuous chain of transmission. But does this lack of continuity harm the ḥadīth to the extent that it no longer qualifies as evidence in support of a legal opinion?

The general body of ḥadīth scholars (*muḥaddithūn*) held the view that a *mursal* ḥadīth is weak (*dā'if*) and does not constitute an authoritative source, while most jurists, including the Imāms Abū Ḥanīfah, Mālik and Aḥmad (in one of two narrations transmitted from him), were of the opinion that attribution of a ḥadīth to the Prophet ﷺ by a *Tābi'i* (*irsāl*) does no harm. They therefore consider *mursal* ḥadīths to be an authoritative source which can be acted upon.

Imām al-Shāfi'i took a middle path between the two sides, considering *mursal* ḥadīths to be 'slightly weak' (*dā'ifan du'fan yasīran*), so that if such a ḥadīth was accompanied by one of four supporting factors, he would deem it an authoritative source.¹⁹

Accordingly, if a legal opinion is given by all or one of the three Imāms (Abū Ḥanīfah, Mālik and Aḥmad) and they support it with a *mursal* ḥadīth which is not accompanied by one of these supporting factors, al-Shāfi'i will disagree with it, as will most of the ḥadīth scholars.

The number of *mursal* ḥadīths is by no means small!

Thus al-'Allāmah al-'Alā' al-Bukhārī said in his Commentary on *Al-Uṣūl* of al-Bazdawī²⁰: "Rejecting *mursal* ḥadīth entails rendering much of the Sunnah redundant; for if all *mursal* ḥadīths were collected, they would be equivalent in length to almost fifty chapters (*juz'*)."

In fact, al-'Allāmah al-Kawtharī went as far as to say: "Whoever classifies a ḥadīth as weak (*dā'if*) due to it being a *mursal* ḥadīth has rejected a good part of the Sunnah that is based on it."²¹

However, the number of *mursal* ḥadīths is greatly diminished if we take into account those that are strengthened by the reinforcing factors admitted by al-Shāfi'i.

¹⁹ See his *Ar-Risālah*, p. 463. The supporting factors (*mu'ayyidāt*) are: that the ḥadīth is related in another form, whether supported by a continuous chain of transmission (*musnad*), or as an incompletely transmitted (*mursal*) ḥadīth; or that some of the Companions (*Ṣaḥābah*) or the majority of the people of knowledge [in matters of fiqh] gave opinions based on it.

²⁰ Vol. 5, p. 3.

²¹ *Ta'nīb al-Khaṭīb*, p. 153; see also his *Fiqh Ahl al-Iraq wa ḥadīthuhum*, p. 32, or his Preface to *Naṣb al-Rāyah*, p. 27.

Establishing the uprightness of the narrator

This is a very broad thoroughfare with vast scope for differences of opinion. One cause for difference was defining the nature of the uprightness that is required.

Is it sufficient, in order for his uprightness to be established, that the narrator be a Muslim about whom there is no proven criticism of character or conduct that would render him an unreliable witness (*jarḥ*)?

Or should it be an additional condition that his uprightness be established with respect to his outward conduct (*ʿādalah ṣāhirah*)—and that this should be sufficient? In this case he would be referred to as ‘screened’ (*mastūr*), i.e. someone whose inward uprightness is not established.

Or is it necessary to establish both his outward and inward uprightness?

Another point on which they differed was: Is it sufficient for one Imām to establish the uprightness of a narrator, or is it necessary that two Imāms do so?

In addition to differences on these points, there exist further differences of opinion about which matters damage a Muslim’s uprightness to the extent that they render him an unreliable narrator. This involves factors for which there is no room for explanation or comment here. How often was a narrator’s uprightness tarnished because he was Iraqi; or because he supported the use of *ra’i* (individual judgement in matters of fiqh) to make legal decisions; or because he acceded to the doctrine of the creation of the Qur’ān during the *Mihnah* (Inquisition of religious scholars)? All of these are matters which only those who have mastered this subject and its history would know of and take into consideration.

I frequently alert my brothers who are students to the necessity of taking into consideration the history, fiqh and underlying principles of the science of crediting and discrediting narrators of ḥadīth (*aj-jarḥ wa’l-taḍlīl*). This is in addition to the descriptions and expressions found in detailed works on the subject. What is there to be said, then, for those who rely on summarised works such as *At-Taqrīb* of Ibn Ḥajar?

Someone who is considered upright by one Imām from among the ḥadīth scholars (*muḥaddithūn*) or the jurists (*fuqahā*) may also be criticised by another such Imām. The narrators about whom there is consensus

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regarding their uprightness or weakness are far fewer in number than those about whom there is difference of opinion.

In addition to these points of contention, the following observation makes the scope for difference of opinion seem greater than hitherto noted: that a single narrator about whom opinions differ may have narrated tens of ḥadīths; hence, those who incline towards crediting him with uprightness will cite all the legal decisions (*ahkām*) which are derived from his narrations; while those who incline towards discrediting him will not cite them.

Herein lies the disagreement. Everyone involved states and believes that he is arguing on the basis of the Sunnah and applying what the noble ḥadīths require of him; that he has followed the method and principles of the ḥadīth scholars (*muḥaddithūn*) in formulating independent legal opinions (*ijtihād*) based on established principles in matters of fiqh and ḥadīth. Given such, it is not within our power to refute what he says.

Similar differences exist surrounding the other conditions for a rigorously authenticated ḥadīth

It is worth pointing out here a condition for establishing the accuracy of the narrator, which was stipulated by Imām Abū Ḥanīfah rah: that the narrator must preserve the ḥadīth continuously from the time he received it until the time he transmitted it without any instance of forgetting it.²² This is a severe condition which was prompted by the confusion that he witnessed in certain narrators, and the manner in which they behaved. Accordingly, he may disagree with others in judging certain ḥadīths as weak (*ḍāʿif*) or rigorously authenticated (*ṣaḥīḥ*).

Even by means of only these basic allusions to the main issues in determining whether a ḥadīth should be accepted or rejected, the reader can appreciate the inaccuracy of what al-Ustādh ‘Abd al-Wahhāb Khallāf said in his book, *Maṣādir at-Tashrīf fīmā lā Naṣṣa fihi*²³: “It is easy to know whether

²² Al-Qārī rah, Commentary, *Musnad Abi Ḥanīfah*, p. 3, with a chain of transmission from al-Taḥāwī to Abū Ḥanīfah; see also al-Ḥākim, *Al-Madkhal fi Usūl al-Ḥadīth*, p. 15 and the comments of Ibn Ḥajar al-ʿĀṭī in what follows.

²³ P. 15.

or not any ḥadīth has been narrated with multiple chains (*mutawātir*), and whether it is rigorously authenticated (*ṣaḥīḥ*), sound (*ḥasan*) or weak (*ḍāʿif*)!

Had this book not spread and been circulated among readers, I would not have needed to draw attention to it.

One of the reports regarding differences of opinion among the scholars (*ʿulamā*) in determining the conditions for a ḥadīth to be rigorously authenticated (*ṣaḥīḥ*) and to qualify for being acted upon is that which is related by al-Ṣaimarī in *Akhbār Abī Ḥanīfah wa Aṣḥābiḥ*²⁴. In sum: ʿIsā ibn Hārūn brought a book to al-Maʾmūn al-ʿAbbāsī in which he had assembled a collection of ḥadīths, saying: "These are the ḥadīths that I have heard in your company from the shaykhs whom ar-Raḥsīd used to choose for you. But your assembly is now attended by those who contradict these ḥadīths—he was referring to the followers of Abū Ḥanīfah. If what these people practise is the truth, then ar-Raḥsīd was mistaken in what he used to choose for you; however, if ar-Raḥsīd was correct, then it is incumbent upon you to dismiss the wrong-doers."

Al-Maʾmūn took the book, saying to him: "Perhaps these people have an argument [to support their case]. I will ask them." So he showed the book to three men, one after the other, but none of them responded satisfactorily.

News of this reached ʿIsā ibn Abān, who was not among those accustomed to appearing before Al-Maʾmūn. So he composed his book *Al-Hujjah aṣ-Ṣaghīr*, which he began by discussing the different kinds of narrations, how they are transmitted, which should be accepted and which rejected and how to treat contradictory narrations, explaining the different cases. He then composed chapters for these ḥadīths, in which he cited the arguments of Abū Ḥanīfah and his school, which were supported by narrations and analogy (*qiyās*), until he had examined the subject thoroughly. He worked on his book until it reached the hands of al-Maʾmūn. On reading it, al-Maʾmūn said: This is the answer those people required. He then produced the following lines of poetry:

They envied the youth,²⁵ for they failed to match his efforts,
People became his enemies and opponents;

²⁴ Pp. 141–3.

²⁵ I.e. Abū Ḥanīfah

Like co-wives who say of the most beautiful among them
In jealousy and covetousness: How ugly is her face!

2. IS ACTING UPON A ḤADĪTH CONDITIONAL UPON ITS AUTHENTICITY?

The scholars (*ʿulamā*) have agreed that if a ḥadīth is classified as rigorously authenticated (*ṣaḥīḥ*) or sound (*ḥasan*), then it qualifies for being acted upon and may be advanced in support of legal opinions (*aḥkām sharʿiyyah*).

As for a weak (*ḍāʿif*) ḥadīth, the majority of scholars—or all of them—hold the view that it can be acted upon in matters of virtue (*faḍāʾil*) and recommended practice (*mustaḥabbāt*), as long as the necessary conditions are satisfied. This is widely known.

Nevertheless, some of the Imāms were of the opinion that it is acceptable to act upon a weak (*ḍāʿif*) ḥadīth even in legal opinions governing the ḥalāl and the ḥarām (permitted and prohibited matters), to the extent that they preferred it over analogy (*qiyās*), which is one of the sources of legislation agreed upon by the vast majority of the scholars (*ʿulamā*) of Islām. Indeed all the scholars agree on this, except those who have deviated and whose disagreement on this point is therefore not taken into consideration.

It was the position of the three independent jurist (*mujtahid*) Imāms, Abū Ḥanīfah, Mālik and Ahmad,²⁶ to act upon a weak (*ḍāʿif*) ḥadīth in

²⁶ Al-ʿAllāmah ʿAlī al-Qārī, *Mirqat al-Mafātīḥ Sharḥ Mishkāt al-Maṣābiḥ*, vol. 1, p. 19. Ibn al-Humam, from the Hanafis, also said in *Fath al-Qadīr*: "A recommended (*mustaḥabb*) act can be established with a weak (*ḍāʿif*) ḥadīth, but not one that is fabricated (*maḍḍūʿ*). See this same point made by senior Ḥanafī legists such as As-Sarakhsī in his *Uṣūl*, vol. 2, p. 113. An-Nawawī, from the Shafiʿis, says in *Al-Adhikār*, p. 7–8: "The scholars of ḥadīth (*muhaddithūn*), jurists (*fuqahā*) and other scholars have said: It is permissible to apply a weak (*ḍāʿif*) ḥadīth in matters of virtue (*al-faḍāʾil*) and encouragement and warning (*at-targhīb waʾl-tarhīb*), as long as it is not fabricated (*maḍḍūʿ*). However, for legal opinions on such matters as the permitted and the prohibited (*al-ḥalāl waʾl-ḥarām*), sales (*al-baiʿ*), marriage (*an-nikāḥ*) and divorce (*aṭ-ṭalāq*), only rigorously authenticated (*ṣaḥīḥ*) or sound (*ḥasan*) ḥadīths are to be applied. [A weak (*ḍāʿif*) ḥadīth may only be applied as a precautionary measure in these areas. For example, if a weak (*ḍāʿif*) ḥadīth exists on the reprehensibility of some kinds of sale or marriage, it is then preferable (*mustaḥabb*) to avoid these acts, but not obligatory."

The chief of later Mālikī jurists said in *Nashr al-Bunūd ʿalā Marāqī ʿs-Saʿūd*, vol. 2, p. 63: "A useful lesson: It is clear from Mālik and those who agree with his position, which is supported by an

this area (i.e. in legal opinions). This was also the position of a group of ḥadīth scholar (*muḥaddith*) Imāms, such as Abū Dawūd, an-Nisā'i and Ibn Abī Ḥātim²⁷. However, this is subject to two conditions: that the weakness is not severe and that no other relevant ḥadīth exists.

It was also the position of Ibn Ḥazam, who said in *Al-Muḥallā*²⁸: "This narration"—on the *du'ā* of *qunūt* (standing supplication)—"is not of the level that it can be taken as proof, but we find no other relevant narration from the Messenger of Allāh ﷺ. Aḥmad ibn Ḥanbal said: "A weak (*ḍā'if*) ḥadīth is preferable to individual judgement (*ra'i*)."²⁹ 'Alī (Ibn Ḥazam) said: "We say likewise."

'Abd Allāh, the son of Imām Aḥmad ibn Ḥanbal, said: "I asked my father what someone should do if he were in a place in which the only people he could find to advise him were: on the one hand, a ḥadīth narrator who could not differentiate between a ḥadīth that is rigorously authenticated (*ṣaḥīḥ*) and one that is faulty (*saqīm*), and on the other hand, people who apply individual judgement (*aṣḥāb ra'i*). If a contentious issue were to arise, who should he ask about it? My father replied: "He should ask the ḥadīth narrator, not someone who applies individual judgement (*ra'i*). A weak (*ḍā'if*) ḥadīth is stronger than individual judgement."²⁹

Even Imām ash-Shāfi'i himself will apply an incompletely transmitted ḥadīth if no other relevant ḥadīth exists regarding the issue, while he considers the *mursal* ḥadīth to be weak. This was transmitted from ash-Shāfi'i by as-Sakhāwī in *Fath al-Mughīth*³⁰, via al-Māwardī from the Shāfi'i Imāms.

incompletely transmitted (*mursal*) ḥadīth, that they consider every ḥadīth which has a broken chain of transmission (*ḥadīth munqaṭi'*) or which is problematic—due to the omission of consecutive narrators (*muḍal*)—to be proofs, since [the term] '*mursal*', in the juristic sense, applies to both. The position of Imām Aḥmad is reported differently. Ibn an-Najjār al-Ḥanbalī concluded a discussion in *Sharḥ al-Kawkab al-Munīr*, vol. 2, p. 573, with the following statement of Imām Aḥmad: "My method is: I do not oppose a ḥadīth that has been classified as weak (*ḍā'if*) if there is nothing in the context to motivate this." This is the most famous transmission from him, and soon to follow is Ibn Ḥazam's transmission from him. It is also imperative to see *I'lām al-Muwaqqi'in*, vol. 1, p. 31.

27 As-Sakhāwī, *Fath al-mughīth*, vol. 1, pp. 80, 267, and other books of Ḥadīth Science; as-Sindī's Notes on the *Sunan* of an-Nisā'i, vol. 1, p. 6; and Ibn Abī Ḥātim, *Al-Jarḥ wa 'l-Taḍlīl*, vol. 8, p. 347, whom an-Nawawī quoted in *Tahdhīb al-Asmā' wa 'l-Lughāt*, vol. 2, ch. 1, p. 86.

28 Vol. 4, p. 148.

29 Ibn Ḥazam, *Al-Muḥallā*, vol. 1, p. 68. As-Sakhāwī also mentions something similar in *Fath al-Mughīth*, vol. 1, p. 80, [stating] that its chain of transmission (*isnād*) is rigorously authenticated (*ṣaḥīḥ*). It is also imperative to see *I'lām al-Muwaqqi'in*, vol. 1, p. 31.

30 Vol. 1, pp. 80, 142, 268.

Our Shaykh 'Abd Allāh aṣ-Siddiq al-Ghumārī ﷺ said in his work, *Ar-Radd al-Muḥkam al-Matīn 'alā Kitāb al-Qawl al-Mubīn*³¹: "Their opinion that a weak (*ḍā'if*) ḥadīth should not be acted upon in legal matters, is not absolute—as the majority of people, or perhaps all, have understood it. In our library there is a hand-written copy of a book called *Al-Mi'yār*, arranged into chapters of fiqh by its author, an eighth century Ḥafīẓ (someone who had memorised over 100,000 ḥadīths). In each chapter, he relates the weak (*ḍā'if*) ḥadīths accepted by the four Imāms, whether unanimously or as individuals, explaining their weakness and mentioning their defects. It is a valuable book that proves the breadth of its author's knowledge and his thorough study of the fields of fiqh and ḥadīth, and the differences of opinion among the Imāms. It seems likely that the author is Ibn Mulaqqin."

There is an additional context in which a weak (*ḍā'if*) ḥadīth may be acted upon: If we are presented with a rigorously authenticated (*ṣaḥīḥ*) ḥadīth, the wording of which admits of two meanings, neither of which is clearly preferable, but a weak (*ḍā'if*) ḥadīth exists which lends probability to one of them, then in this case we accept the meaning supported by the weak (*ḍā'if*) ḥadīth, despite its weakness. This has been stipulated by a number of Imāms from among both the earlier generations (*as-sābiqūn*) and the later generations (*al-lāḥiqūn*).

Al-Bayhaqī ﷺ, in the conclusion to his book *Al-Madkhal ilā Dalā'il an-Nubuwwah* (published at the beginning of *Ad-Dalā'il*³²), said: "It was my desire—and all volition belongs to Allāh Most High—to collect some of the miracles (*mu'jizāt*) and proofs of prophethood (*dalā'il an-nubuwwah*) which have reached us from our Prophet Muḥammad ﷺ. . . according to the [following] conditions which I have stipulated in my works: preferring a rigorously authenticated (*ṣaḥīḥ*) ḥadīth over a faulty (*saqīm*) ḥadīth; and giving priority to a ḥadīth that is well-known (*marūf*) over one that is obscure (*gharīb*)—except when the meaning of the rigorously authenticated or well-known ḥadīth is not apparent without the support of the other [ḥadīth which does not fulfil these criteria], in which case, I will cite it. I take as my basis everything which has previously been considered

31 P. 193.

32 *Ad-Dalā'il*, p. 196.

rigorously authenticated (*ṣaḥīḥ*) or well-known (*marūf*) by scholars of the military campaigns (*al-maghāzī*) [of the Prophet ﷺ] and history (*at-tārikh*).

[Al-Bayhaqī], in his book, *As-Sunan al-Kubrā*³³, discusses the issue of establishing a line (*khatt*) in front of someone who is praying, rather than a barrier (*sutrah*). Having mentioned that there is disagreement about the name of one of the narrators, he goes on to say: "Ash-Shāfi'ī would advance this ḥadīth in his old position (*qadīm*), but became hesitant about it in his new position (*jadīd*). Thus he said in al-Buwaiti's book: 'Someone who is praying should not draw a line in front of him unless there is a ḥadīth that supports this, in which case he should follow it. . .'. In saying this it was as if he had detected the disagreement about its chain of transmission (*isnād*) which we have cited. There is no harm in [acting upon such a ḥadīth] in this kind of matter, if Allāh Most High will."

What al-Bayhaqī says here is the main reason why Ibn aṣ-Ṣalāḥ chose the ḥadīth mentioned as an example of a ḥadīth of uncertain accuracy (*muḍṭarib*) in his *Introduction to Ḥadīth Science* (the nineteenth category of ḥadīth).

Imām an-Nawawī said in *Al-Majmū'*³⁴: "Giving preference [to a particular meaning] for an incompletely transmitted (*mursal*) ḥadīth is acceptable, although he considers the *mursal* ḥadīth to be weak (*ḍā'if*), as is well known.

Imām Ibn Juzay al-Kalbī al-Mālikī, in the Introduction to his Commentary [on the Qur'ān], *At-Tashīl*, mentioned the twelve ways of giving preference (*tarjīh*) to the contradictory opinions of the exegetes (*mufasssīrūn*), saying: "If an exegesis (*tafsīr*) of something in the Qur'ān has been narrated from [the Prophet ﷺ], we rely on it—especially if it appears in a rigorously authenticated (*ṣaḥīḥ*) ḥadīth."

His use of the word "especially" (*lā siyyamā*) denotes that it is correct to use a weak (*ḍā'if*) ḥadīth in preferring one of two or more contradictory opinions on the exegesis of a noble Qur'ānic verse (*āyah*).

Imām Ibn al-Qayyim, in *Tuhfat al-Mawḍūd*³⁵, discussed the words of Allāh Most High at the beginning of *Sūrat an-Nisā'* in terms of the difference of opinion about the meaning of [the term] "awl" here:

33 Vol. 2, p. 271.

34 Vol. 1, p. 100.

35 Pp. 29–30.

ذَلِكَ أَذْنَىٰ أَلَّا تَعُولُوا

That will make it more likely that you will not commit 'awl (4:3)

Does it mean 'a great number of children' (*'iyāl*), as in the view of ash-Shāfi'ī? Or is it 'injustice' (*al-ḥayf*) and 'oppression' (*al-jawr*), as in the view of most of the exegetes (*mufasssīrūn*) from among both the early and later generations?

Imām Ibn al-Qayyim preferred the view of the majority due to a number of matters, including: "That this [i.e. the view of the majority of exegetes (*mufasssīrūn*)] has been transmitted from the Prophet ﷺ, even though it is an 'obscure' (*gharīb*) ḥadīth [i.e. known to only one narrator], so it is still correct to give preference to it." The narration [in question] is the ḥadīth of Sayyidah 'Ā'ishah—which he had cited a few lines before—from the Prophet ﷺ, in which he said: "So that you do not oppress." The ḥadīth was related by Ibn Hibbān as a ḥadīth attributed to the Prophet ﷺ (*marfū'*)³⁶, even though Abū Ḥatim ar-Rāzī said: "This ḥadīth has been mistakenly related (*khaṭa*)."³⁷ The correct version of the ḥadīth is that it is attributed to 'Ā'ishah (*mawqūf*). This position is transmitted from most of the first three generations of Muslims (*Salaf*); nevertheless, Ibn al-Qayyim says that it is correct to use the narration to give preference.

Mawlānā al-'Allāmah Shaykh Muḥammad Yūsuf Al-Bannūrī, in his valuable book *Ma'ārif as-Sunan*³⁷, cited the responses to what has been narrated about [the Prophet ﷺ] urinating in a standing position because of a problem in his knee—according to the narration of al-Bayhaqī. He said: "Despite the weakness of its chain of transmission (*sanad*), it is sufficient to demonstrate the point and the principle."

It is clear from the above discussion that the weak (*ḍā'if*) ḥadīth was viewed with value and consideration by the Imāms of earlier generations—as we have seen. This is in contrast to the view being promoted by some today, which considers a weak (*ḍā'if*) ḥadīth to be absolutely invalid, and associates it with the fabricated (*mawḍū'*) ḥadīth, as if they were both links in a single chain!

36 *Al-Iḥsān*, Vol. 9, p. 338, ḥadīth 4029.

37 Vol. 1, p. 105.

3. ESTABLISHING THE NOBLE PROPHETIC WORDING OF THE ḤADĪTH

By this I mean the necessity of ascertaining that the Prophet ﷺ expressed this specific meaning with this particular phrase, as opposed to any alternative mode of expression which has also been transmitted. This becomes necessary when two articulations exist for one ḥadīth, both of which are the basis for different legal rulings.

Here the scope for difference of opinion is so vast that only those Imāms who are independent jurists (*mujtahidūn*) and who have occupied themselves with this task can appreciate its breadth.

This issue is referred to by those Imāms who are ḥadīth scholars (*muḥaddithūn*) and scholars of juristic principles (*uṣūliyyūn*) as 'transmitting a ḥadīth by meaning' (*riwāyat al-ḥadīth bi'l-mā'nā*).

The general body of scholars were of the opinion that it is permissible. However, they made it conditional that someone who narrates by meaning knows the Arabic language well and understands its nuances. This was for fear of the narrator choosing words that might introduce a disparity in meaning, assuming that they are synonymous with the original.³⁸

Imām Abū Ḥanīfah stipulates a further condition, the nobility and importance of which is evident to anyone directly involved in this task. This condition is that someone who narrates by meaning should be a jurist (*faqīh*), i.e. someone of deep understanding³⁹, so that he is aware of the consequences resulting from his choice of phrase.

I shall cite some examples of this:

Example 1: Abū Dawūd⁴⁰ narrated, via Ibn Abī Dhī'b, that Ṣāliḥ (Mawlā al-Taw'amah)⁴¹ narrated [to him] from Abū Hurayra, saying: The Messenger of Allāh ﷺ said:

38 See Khaṭīb al-Baghdādī, *Al-Kifayah*, p. 198 and p. 167.

39 Al-Kawtharī, *Fiqh Ahl al-'Irāq wa Ḥadīthuhum*, p. 35.

40 Vol. 3, p. 531, (3191).

41 Ṣāliḥ (Mawlā at-Taw'amah—or at-Tu'amah): he was truthful (*ṣadūq*), although he would become confused in later life. Ibn Abī Dhī'b's narration from him is before this confusion; his narrations are therefore considered rigorously authenticated (*ṣaḥīḥ*) and accepted (*maqbul*). I have mentioned (and repeated) this part of the chain of transmission (*sanad*) in order to clarify this point.

Some—who are missing the point—have criticised my citation of a fabricated (*maḍḍū'*) ḥadīth, or one that is bordering on fabricated, based on what al-Munāwī said in *Fayd al-Qadīr*, Vol. 6, p. 171.

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مَنْ صَلَّى عَلَى جَنَازَةٍ فِي الْمَسْجِدِ فَلَا شَيْءَ عَلَيْهِ

Whoever offers the funeral prayer in the mosque (*masjid*) has done no harm.

This is how it appears in some editions and old narrations, while in some other editions it appears: "He has gained no benefit" (*fa lā shay'a lahu*). In al-Khaṭīb al-Baghdādī's version it appears: "He has done no harm" (*fa lā shay'a 'alayhi*) or "He has gained no benefit" (*fa lā shay'a lahu*). Abū 'Alī al-Lu'lu'ī is uncertain about which is correct. Al-Lu'lu'ī is a transmitter of Abū Dawūd's *Sunan* from its author, as is well known.

The narration: "He has gained no benefit" (*fa lā shay'a lahu*) is confirmed by the fact that this is how it appears in the narration of Ibn al-'Abd and Ibn Dasah from Abū Dawūd⁴²; likewise in the narration of 'Abd ar-Raz-zāq, from Ma'mar and at-Thawrī, and in that of Aḥmad and at-Taḥāwī in *Mā'nī al-Āthār*; likewise in the narration of Abū Dawūd at-Tayālīsī in his *Musnad*⁴³, who added from Ṣāliḥ (Mawlā al-Taw'amah): "I know some people who met with the Prophet ﷺ and Abū Bakr, who, whenever they arrived and found nowhere to pray [the funeral prayer] but in the masjid, would return without praying."

The version of Ibn Abī Shaybah in his *Muṣannaf*⁴⁴ is:

مَنْ صَلَّى عَلَى جَنَازَةٍ فِي الْمَسْجِدِ فَلَا صَلَاةَ لَهُ

Whoever offers the funeral prayer in the mosque (*masjid*) has not prayed.

He—Ṣāliḥ—said: "If the Companions of the Prophet ﷺ were in a masjid which became cramped, they returned and did not pray."

Al-Bayhaqī, in *As-Sunan al-Kubrā*⁴⁵, narrated the ḥadīth with two

Amazing: how someone contests the Imāms and misguides the Ummah, without going beyond (in his limited knowledge!!) a single book. How then, could he be aware of and understand these reaches of the battle ground of technical issues [within ḥadīth science]?

Ibn al-Qayyim classed this ḥadīth as sound (*ḥasan*) in *Zād al-Mā'ād*, Vol. 1, p. 501. See also what he says in his notes on al-Mundhirī's *Tahdhīb Sunan Abī Dawūd* (3603), and correct what he quotes from Ibn 'Abd al-Barr in *At-Tamhīd*, Vol. 13, p. 221, from: "The correct version is: 'he has done no harm'." ("Waṣ-ṣaḥīḥ: *fa lā shay'a 'alayhi*"), to: "The correct version is: 'he has gained no benefit'." ("Waṣ-ṣaḥīḥ: *fa lā shay'a lahu*"), as it is in *At-Tamhīd*.

42 See Abū Dawūd's *Sunan*, (3194) (my edited version).

43 *Al-Muṣannaf*, Vol. 3, p. 527, (6579); Aḥmad, Vol. 2, pp. 444, 455; at-Taḥāwī, Vol. 1, p. 492; and at-Tayālīsī, p. 304, (2310).

44 Vol. 3, p. 364.

45 Vol. 4, p. 53.

chains of transmission to ‘Abd ar-Razzāq, articulated as above. In one of these, the same Ṣāliḥ adds: “I saw a funeral take place in the masjid and I saw that when Abū Hurayrah found no place [to pray] other than in the masjid, he left and did not offer the funeral prayer.” This is not in the published edition of ‘Abd ar-Razzāq’s work.

Ibn Mājah⁴⁶ also narrated the ḥadīth from Ibn Abī Dhi’b’s chain of transmission, with the wording: “he has gained no benefit” (*fa laysa lahu shay*).

For this reason, the same al-Khaṭīb said: “The [version which has been] preserved is: ‘he has gained no benefit’ (*fa lā shaya’ lahu*)”, as in Naṣb ar-Rāyah⁴⁷.

Consequently, those Imāms who accepted the first narration: “he has done no harm” (*fa lā shay’a ‘alayhi*), permitted praying the funeral prayer in the mosque (*masjid*), without finding any reprehensibility in it. This was the position (*madhhab*) of Imām ash-Shāfi’i and others.

On the other hand, those who accepted the second narration: “he has gained no benefit” (*fa lā shay’a lahu*), were averse to praying the funeral prayer in the masjid. This was the position of Imām Abū Ḥanīfa and others⁴⁸.

Example 2: The ḥadīth about the Prophet ﷺ clearing his throat (*tanāḥnuḥ*) or exclaiming ‘*Subḥān Allāh!*’ (*tasbīḥ*) in order to indicate that he was praying, in response to ‘Alī asking permission to enter his house while he was praying.

The narrators disagreed about its wording: Did he clear his throat or exclaim ‘*Subḥān Allāh?*’ See the books of an-Nisā’i and Ibn Khuzaymah⁴⁹, who gave the following chapter-heading: “Clearing the throat is allowed as a concession. . . if this wording is correct, for there have been disa-

⁴⁶ Vol. 4, p. 53.

⁴⁷ Vol. 1, p. 486, (1517).

⁴⁸ My attention was drawn to this example by our respected Shaykh the learned scholar of ḥadīth Mawlānā Shaykh Ḥabīb ar-Raḥmān al-A’zamī, on reading this work to him, as mentioned in the Introduction. May Allāh have mercy on him and grant him abode in his spacious gardens. Since this is the first example I am giving, I will take the opportunity to remind the reader that I do not give all the proofs associated with an example, but only those which are relevant to the intended point and appropriate to the context, because each Imām has many other proofs. Neither is it my aim to show that the proofs of one Imām are superior to those of another. I take refuge in Allāh!

⁴⁹ An-Nisā’i (*As-Sughrā*), Vol. 3, p. 12, (1211–1213); Ibn Khuzayma, Vol. 2, p. 53, (902–904); *At-Talkhīṣ al-ḥabīr*, Vol. 1, p. 283.

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reements about it.” See also as-Sindī’s Notes on an-Nisā’i and *At-Talkhīṣ al-ḥabīr*. It seems that Ibn Ḥajar’s copy of an-Nisā’i has: “he exclaimed, ‘*Subḥān Allāh!*’” (*fa sabbah*).

As a result, there have been different juristic rulings on this issue. According to the position of Imām Aḥmad: Whoever exclaims ‘*Subḥān Allāh!*’ to indicate that he is praying, his prayer (*ṣalāh*) will not be harmed; whereas whoever clears his throat, his prayer is said to have been invalidated (*fasadat*). Later Ḥanbalīs maintained that it is reprehensible (*makrūh*) to clear the throat due to the disagreement about whether or not the prayer is invalidated⁵⁰.

For Shāfi’is, there is nothing at all wrong with exclaiming ‘*Subḥān Allāh!*’ (*tasbīḥ*); whereas they consider clearing the throat (*tanāḥnuḥ*) to invalidate the prayer (*ṣalāh*) if it is prolonged such that two letters are articulated, as in *Al-Majmū’*⁵¹.

As for the Ḥanafīs, they too see no harm in exclaiming ‘*Subḥān Allāh!*’, but consider clearing the throat to invalidate the prayer if there is no excuse for it, such as improving the voice for recitation, and indicating that one is praying⁵².

Example 3: Al-Bukhārī—and others—narrated from Ibn Abī Dhi’b, from az-Zuhri, from Sa’id ibn al-Musayyib, from Abū Hurayrah, that the Prophet ﷺ said:

إِذَا سَمِعْتُمُ الْإِقَامَةَ فَاَمْشُوا إِلَى الصَّلَاةِ، وَعَلَيْكُمْ بِالسَّكِينَةِ وَالْوَقَارِ
وَلَا تُسْرِعُوا، فَمَا أَدْرَكْتُمْ فَصَلُّوا، وَمَا فَاتَكُمْ فَأَتِمُّوا

If you hear the call indicating the start of prayer (*iqamah*), walk to the prayer. You must do so in a calm and dignified manner, without hurrying. Pray what you catch and complete what you miss.

This ḥadīth was narrated by ‘Abd ar-Razzāq in *Al-Muṣannaf*—and from him by Imām Aḥmad in his *Musnad*—from Ma’mar; and by al-Humaydi in his *Musnad*—from Ibn Uyaynah—both from az-Zuhri, from Sa’id ibn

⁵⁰ *Al-Mughnī*, Vol. 1, pp. (706–707); *Sharḥ Muntahā ‘l-‘Irādāt*, Vol. 1, p. 201.

⁵¹ Vol. 4, pp. 10, 12.

⁵² See Ibn ‘Abidin’s Notes, Vol. 1, p. 416. See also Ibn Amīr Ḥajj’s explanation in *Ḥalbat al-Mujallī*, as he is a distinguished jurist (*faqīh*).

al-Musayyib, from Abū Hurayra also, with the wording: "make up what you miss" (*wa mā fātakum faqdū*)⁵³.

In the *Musnad* the following wording is also narrated from Anas from a number of chains of transmission, from Abū Hurayra, attributed to the Prophet ﷺ (*marfū'an*): "let him make-up what he misses" (*wa 'lyaqdi mā sabaqahu*). There is a similar version in Abū 'Awāna's work⁵⁴.

This slight difference between the two narrations on the matter of a single phrase: "complete" (*fa atimmū*) or "make up" (*faqdū*), became the basis for a disagreement that is important from a juristic (*fiqhī*) perspective: If a person praying, having joined the prayer late (*masbūq*), is in time to pray the fourth portion of the prayer (*rak'ah*) with the Imām, how will he then perform the three portions that he missed?

According to the first narration: "complete" (*fa atimmū*), the person praying considers the portion of the prayer (*rak'ah*) which he managed to pray with the Imām to be his first, even if it was the fourth portion of the prayer for the Imām. When the Imām ends the prayer with greetings of peace (*taslīm*), this person stands and performs his second portion of the prayer, since he is standing to "complete" his prayer (*ṣalāh*). He therefore recites *Al-Fātiḥah* and another chapter of the Qur'ān (*surah*), without reciting the opening supplication (*du'ā' al-iftitāh*), just as he would if he were praying the second portion of the prayer alone. Having done this, he sits for the profession of faith (*tashahhud*), and then stands to complete his prayer. He performs the remaining two portions of the prayer, reciting only *Al-Fātiḥah*. This is the position of a number of the scholars (*'ulamā'*), including Imām ash-Shāfi'ī.

According to the second narration: "make up" (*faqdū*), the person praying considers the portion of the prayer which he managed to perform with the Imām to be his fourth, being also the fourth of the Imām. When the Imām ends the prayer with greetings of peace, this person stands and performs the first portion of the prayer, since he is standing to "make up" what he has missed. He therefore recites the opening supplication, followed by *Al-Fātiḥah* and another chapter of the Qur'ān, as he would if he were praying the first portion of the prayer alone. After this he sits

⁵³ *Al-Muṣannaḥ*, Vol. 2, p. 287, (3399); Aḥmad, *Al-Musnad*, Vol. 2, p. 270; al-Humaydi, Vol. 2, p. 418, (935).

⁵⁴ *Al-Musnad*, Vol. 3, pp. 243, 252; Abū 'Awāna, *Aṣ-Ṣaḥīḥ*, Vol. 2, p. 109.

for the profession of faith, then stands and recites *Al-Fātiḥah* and another chapter of the Qur'ān. Finally, in the last portion of the prayer, he recites only *Al-Fātiḥah*. This is the position of a number of the scholars, including Imām Abū Ḥanīfa. This is the way in which both of the narrations are acted upon: 'making up' in terms of recitation and 'completing' in terms of sitting, i.e. performing each portion of the prayer, (*qu'ūd*)⁵⁵.

Many other legal rulings (*aḥkām*) are also based on similar slight differences in phrasing, to which the narrator has not given due care. If, on the other hand, he had been a jurist (*faqīh*) and therefore aware of the rulings based on the difference between those phrases, for example, he would have been stricter about their wording, rather than changing it and then claiming that he has narrated by meaning, and that this practice is allowed!

There are many such examples, although the way in which they developed makes it impossible to number them exactly. One example which comes to mind is that in which a mistake was made by an Imām of immense standing in the field of ḥadīth, when he changed the wording of a narration, claiming that he was narrating by meaning.

I will relate at length what al-Khaṭīb said in *Al-Kifāyah*, which originates from Qādī ar-Ramahurmuzī in *Al-Muḥaddith al-Fāṣil*⁵⁶.

Al-Khaṭīb said: "It is preferable (*mustaḥabb*) for him—the narrator—to transmit ḥadīths with their original wording, as this is a sounder method for him. [. .]

If he does narrate by meaning without considering the wording, then he must be more on his guard and particularly wary that he does not change the meaning and thereby alter the legal ruling (*ḥukm*) [that is derived from it].

Then [Al-Khaṭīb] narrated, with his chain of transmission from Mūsā ibn Sahl ibn Kathīr, from Ibn 'Ulayyah, from 'Abd al-'Azīz ibn Ṣuhayb, from Anas ibn Mālik, who said: "The Messenger of Allāh ﷺ forbade men from using saffron [as perfume]."

He then narrated it with a chain of transmission from Shu'bah, from Ibn 'Ulayyah, with the wording: that the Prophet ﷺ forbade the use of saffron [as perfume].

⁵⁵ See other legal opinions based on differences of opinion about the narration in *Al-Baḥr ar-Rā'iq*, Vol. 1, pp. 400–403, and Ibn 'Ābidīn's *Notes*, Vol. 1, p. 596.

⁵⁶ *Al-Kifāyah*, pp. 167–168; *Al-Muḥaddith al-Fāṣil*, pp. 389–390.

Then he ascribed to Ibn 'Ulayyah that he said: "Shu'bah transmitted one ḥadīth from me in which he made a mistake. I narrated to him from 'Abd al-'Azīz ibn Ṣuhayb, from Anas that the Prophet ﷺ forbade men from using saffron, but Shu'bah said: 'The Prophet ﷺ forbade the use of saffron [in general]!'

[Al-Khaṭīb continued:] Do you not see Isma'īl [Ibn 'Ulayyah's] rejection of Shu'bah's narration of this ḥadīth from him, the wording of which articulates a general prohibition on the use of saffron, while it was men in particular who were forbidden from this? Shu'bah intended to relate by meaning but was not as alert as Isma'īl. It is therefore our opinion: that it is sounder to narrate a ḥadīth according to the original wording than narration by meaning."

The present author agrees with ar-Rāmahurmuzī that: "Shu'bah is Shu'bah". However, Shu'bah acknowledged the superiority of Isma'īl Ibn 'Ulayyah over him in fiqh, giving him the title (*laqab*): Sweet Basilicum of the Jurists (*Rayḥānat al-Fuqahā*) and Master of the Ḥadīth Narrators (*Sayyid al-Muḥaddithīn*).

As for Shu'bah, al-Ḥāfiẓ ibn 'Abd al-Ḥādī said of him in *At-Tanqīḥ*⁵⁷: "Shu'bah was not a master of fiqh." Shu'bah's lack of proficiency in fiqh even caused him to criticize a trustworthy (*thiqah*) narrator, who narrated a ḥadīth which Shu'bah saw as contradicting another ḥadīth on the same topic. As a consequence, this narrator was discredited by others who followed Shu'bah! See this episode in the aforementioned source.

Al-Khaṭīb related the following with his chain of transmission—immediately after the above—from Muḥammad ibn al-Munkadir: "A jurist who speaks to the people: In fact, he intervenes between Allāh and his servants, so let him be careful how he intervenes!"

He also conveyed other statements of the same meaning, with his chains of transmission (*asānīd*), including what Imām Ibrāhīm an-Nakha'ī said—the full statement will be mentioned later⁵⁸: "At times, you will find a Shaykh conveying a ḥadīth [by meaning] such that ḥalāl becomes ḥarām and ḥarām becomes ḥalāl, without him even noticing."

For this reason the Imāms preferred what was transmitted by the jurists

⁵⁷ As in *Naṣb ar-Rāyah*, vol. 4, p. 174.

⁵⁸ P. 97.

(*fuqahā*) over what was transmitted by others. Qāḍī ar-Rāmahurmuzī composed a long chapter in *Al-Muḥaddith al-Fāṣil*⁵⁹ with the title: *On the merit of those who combine narration with understanding*. The first report therein was from Imām al-'Alam Wakī' ibn al-Jarrāḥ, who said to his companions one day: "Which [chain of transmission] is preferable to you: al-A'mash, from Abū Wa'il, from 'Abd Allāh—Ibn Ma'sūd; or Sufyān—ath-Thawrī—from Maṣ'ūr, from Ibrāhīm, from 'Alqamah, from 'Abd Allāh?"

They said to him: "Al-A'mash, from Abū Wa'il—the chain of transmission is shorter!" So Wakī' said: "Al-A'mash is a Shaykh, and Abū Wa'il is a Shaykh; while Sufyān, from Maṣ'ūr, from Ibrāhīm, from 'Alqamah, from 'Abd Allāh is: a jurist (*faqīh*) from a jurist from a jurist from a jurist on the authority of a jurist." (i.e. He preferred the second chain due the superior understanding of its narrators, even though it was longer.)

Al-Khaṭīb, at the end of *Al-Kifāyah*, cites some reasons for preferring some narrations over other narrations⁶⁰: "A narration will be given preference due to its narrators being jurists (*fuqahā*), because a jurist will take more care than others regarding matters related to legal rulings (*aḥkām*). He also related the incident of Wakī' mentioned above, adding Wakī's concluding remarks: "A ḥadīth transmitted by jurists (*fuqahā*) is better than one transmitted by shaykhs (i.e. non-jurists)."

He then related from Wakī' with his chain of transmission from Ibrāhīm ibn Sa'īd al-Jawharī: "I prefer a ḥadīth [transmitted] by jurists to a ḥadīth [transmitted] by shaykhs."

I will add that there is also another, similar incident from the same Wakī', to which his response is more general. This incident is in Ibn Abī Ḥātim's *Al-Jarḥ wa't-Ta'dīl* and Wakī's response is: "They preferred a ḥadīth [transmitted] by jurists to a ḥadīth [transmitted] by shaykhs."

This is Wakī' ﷺ talking about the Imāms of ḥadīth generally, rather than himself in particular, since he says in the first instance: "I prefer" (*Aḥabbu ilayyā*), and in the second: "They prefer" (*Aḥabba ilayhim*).

Ibn Ḥibbān ﷺ knew the importance of this matter and therefore considered it a factor in the acceptance (*qubūl*) or preference (*tarjīḥ*) of

⁵⁹ P. 238. The story is in al-Ḥākim, *Mārifah 'Ulūm al-Ḥadīth*, p. 11, and al-Bayhaqī, *Al-Madkhal ilā's-Sunan al-Kubrā*, pp. 95, 96; see also the Commentary on the latter.

⁶⁰ P. 436.

ḥadīth. He said, in the Introduction to his *Ṣaḥīḥ*⁶¹, in sum: "We do not accept additional wording in narrations, except from someone who is predominantly a jurist, because the People of Ḥadīth are predominantly interested in memorising names and chains of transmission (*asānīd*), rather than the wording (*matn*). So if a ḥadīth narrator (*muḥaddith*) presents a narration—and he is predominantly a jurist—I will only accept it from his book. Similarly, I will not accept from one of the People of Ḥadīth a narration to which wording has been added, even if he is an undisputed ḥāfiẓ (someone who has committed 100,000 ḥadīth to memory), because he is predominantly interested in authenticating the chain of transmission (*isnād*). This is a necessary precaution in accepting narrations to which wording has been added.

4. ESTABLISHING THE CORRECT ARABIC VOCALISATION

This means it is necessary to investigate how the Prophet ﷺ vocalized a particular word: whether he used the indicative case (*marfūʿatan*), the subjunctive (*manṣūbatan*) or the imperative (*majrūʿatan*), and so on⁶². We

61 *Al-Iḥsān*, vol. 1, p. 159.

62 The precise vocalisation is inferred from what the scholars (*ʿulamāʾ*) have said about it and their pointing out the differences in narrations. [Knowing the precise vocalisation] depends on transmission or learning of the narrations [from one's teachers], rather than printed vocalisation, something which will be obvious to the student.

Nevertheless, what made me point this out is the following incident which I relate to the readers—which elicits tears of laughter—transmitted from our Shaykh, al-ʿAllāmah an-Nādir of Ḥomṣ, Shaykh of the Qurʾān reciters (*Qurʾāʾ*), whose fatwas are most reliable, the reciter (*muqriʾ*), exegete (*mufasssir*) and jurist (*faqīh*), the pious Shaykh ʿAbd al-ʿAzīz Uyun as-Sud, who passed away at dawn on 14 Ṣafar 1399 (1979), may Allāh Most High have mercy on him. He related this to me nearly 9 years ago in my house in Ḥalab, saying: "I was in the mosque just before the adhān for the Noon Prayer (*Zuḥr*) when there entered a man that I didn't know. Then I was told his name—our Shaykh mentioned his name and he turned out to be Shaykh Nāṣir al-Albānī! He sat waiting for the adhān, and when the muʾadhḥin said: 'Allāhu Akbaru Allāhu Akbar!', vocalising the letter *rāʾ* with a *fathiah*, this man said, trembling with anger: 'This is a mistake, this is an innovation!' So our Shaykh asked: 'What is the mistake and innovation?' The man replied: 'This contradicts what is in *Ṣaḥīḥ Muslim*!' He asked him again: 'What is in *Ṣaḥīḥ Muslim*?' The man replied: 'It says in *Ṣaḥīḥ Muslim*: 'Allāhu Akbaru Allāhu Akbar!', vocalising the letter *rāʾ* with a *ḍammah*.' So our Shaykh said to him in his famously polite and calm manner: 'Did you hear *Ṣaḥīḥ Muslim* from your Shaykhs, who heard it from their Shaykhs, [and so on] back to Imām Muslim, from whom they transmitted the vocalisation of the letter *rāʾ* in this ḥadīth with a *ḍammah*, or is this in the printed ver-

know the intricacies of the Arabic language and what important consequences this has in terms of slight grammatical and linguistic differences.

This is particularly important when the narrators differ in how they transmit a particular word in a narration, as was the case in the third point. In such a case, if we establish one transmission of the word as authoritative, we reject any difference of opinion in terms of fiqh. However, if the narrations are different, then difference of opinion is inevitable.

I will relate a useful passage by Ibn Qutaybah, which provides a general explanation of the importance of this matter. Then I will give examples to illustrate its particular importance.

He ﷺ said at the beginning of his book, *Taʾwīl Mushkil al-Qurʾān*⁶³: "They"—i.e. the Arabs—"use grammatical inflection (*irʾāb*), which Allāh has made an ornament for their speech, an embellishment for their words, and on some occasions a distinguishing factor between two equivalent sentences which have two different meanings. For example: when the subject (*fāʾil*) and object (*mafʿūl*) are indistinguishable from each other, except by means of inflection (*irʾāb*), because it is equally possible to attribute the [action of] the verb to either one of them.

Suppose someone says—with nunnation (*tanwīn*):

هذا قاتل أخى

This [is the person who] is going to kill my brother. (*ʿHādhā qātilun akhī*)

Someone else says—with a genitive construction (*iḍāfah*):

هذا قاتل أخى

This is my brother's killer. (*ʿHādhā qātilu akhī*)

The nunnation (*tanwīn*) [in the first example] indicates that he has not yet killed him, while the omission of nunnation [in the second example] indicates that he has killed him.

sion? At this he went quiet, as did I, prayed and left." Let the discerning consider this! This man had only one Shaykh—one of the scholars (*ʿulamāʾ*) of Ḥalab—from whom he received general authorisation (*ijazah*), but did not hear from him, study with him, or remain in his company!

In *Al-Ilmāʾ* by Qāḍī ʿIyād, p. 28, al-Muʿtaṣim al-ʿAbbāsī is reported to have said to Imām Aḥmad: "Discuss [knowledge] with Ibn Abī Duʿād," but the Imām turned his face from him and said: "How can I speak to someone I have never seen at the door of a scholar (*ʿālim*)?!"

63 Pp. 14–16.

[Now] suppose a reciter recites:

﴿فَلَا يَحْزُنْكَ قَوْلُهُمْ إِنَّا نَعْلَمُ مَا يُسِرُّونَ وَمَا يُعْلِنُونَ﴾

Do not be aggrieved by what they say; indeed We know what they keep secret and what they reveal (36:76).

If he chooses not to start the nominal clause with [the particle] 'innā', applying the view that it should be pronounced with a *fathah*—according to the school of thought that uses [the conjunction] 'anna' to introduce speech, as well as thought—then the meaning takes a completely new direction, far from its original path." [Ibn Qutaybah] is referring here to the vocalisation of *hamzah* in [the conjunction] 'anna' with a *fathah* or a *kasrah*.

The effect is to make the Prophet ﷺ aggrieved at their saying: 'Indeed Allāh knows what they keep secret and what they reveal!' This is blasphemy (*kufr*) if the person saying it intends this meaning. It is the kind of mistake which is not permissible in prayer (*ṣalāh*) and should not be tolerated [even] from followers.

The Messenger of Allāh ﷺ said:

لَا يُقْتَلُ قُرَشِيٌّ صَبْرًا بَعْدَ الْيَوْمِ

(*Lā yuqtalu Qurashī ṣabran ba'd al-yawm*)

No member of Quraysh will be killed in captivity after today.

If narrated in the imperative case (*jazman*)—i.e. '*lā yuqtal*'—"then the literal meaning prohibits killing a member of Quraysh who apostatises, and taking vengeance on him if he kills.

If narrated in the indicative case (*raf'an*)—i.e. '*lā yuqtalu*'—"it is then interpreted as a report (*khbar*) about Quraysh: that none of them will apostatise from Islām and they will therefore not be killed⁶⁴. Does this not make apparent how grammatical inflection (*i'rāb*) is the distinguishing factor between these two meanings?

It is also possible to differentiate between two meanings based on the change in vocalisation of a single letter. For example, one would say of someone whom people cursed:

⁶⁴ This ḥadīth was narrated by Muslim, Vol. 3, p. 1409, (88), and others. It is narrated in the nominative case ("*lā yuqtalu*"), so that "*lā*" is negative (*nāfiyah*), rather than prohibitive (*nāhiyah*).

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رجل لعنة

a cursed man ('*rajul lū'nah*').

However, if it were he who cursed people, one would vocalise the 'ayn with a *fathah*, saying:

رجل لعنة

a man who curses ('*rajul lū'nah*').

One would say: '*rajul subbah*' of someone whom people insulted. However, if it were he who insulted people, one would say: '*rajul subabah*'. Similarly: 'mocked' (*huz'ah*) and 'mocking' (*huza'ah*); 'ridiculed' (*sukhrah*) and 'ridiculing' (*sukharah*); 'laughed at' (*duhkah*) and 'laughing' (*duhakah*); and 'cheated' (*khud'ah*) and 'cheating' (*khudā'ah*)⁶⁵.

The following are some specific, practical examples:

If a butcher slaughters a she-goat according to Islamic Law, and a stillborn foetus emerges from its stomach, is it ḥalāl to eat it without having slaughtered it Islamically, or is it only ḥalāl if an Islamic slaughter was performed on it?

In connection with this there is the statement of the Prophet ﷺ:

ذكاة الجنين ذكاة أمه

(*Dhakāt al-janīn dhakāt ummihi*)

The sacrifice of the foetus is the sacrifice of its mother.

This has been narrated in different ways. Ibn al-Athīr said in *An-Nihāyah*⁶⁶: "This ḥadīth is narrated in both the nominative and the accusative case⁶⁷. Whoever narrates it [i.e. the word '*dhakāt*' the second time it appears] in the nominative case makes it the predicate (*khbar*) of the subject (*mubtada'*), which is '*dhakāt al-janīn*'. Thus, the sacrifice of the mother is the sacrifice of the foetus, and no new sacrifice is required. Whoever narrates it in the accusative case assumes that the sacrifice of the foetus is like the sacrifice of its mother, since when a preposition [i.e. signifying 'like'] is omitted,

⁶⁵ Brother Faḍilat al-Ustādh 'Abd al-Wahhāb Tawilah has a work printed, called *Athar al-Lughah fi Ikhtilāf al-Mujtahidīn*.

⁶⁶ Vol. 2, p. 164.

⁶⁷ I.e. the word "*dhakāt*" the second time it appears, in the clause "*dhakāt ummihi*".

the genitive noun becomes accusative. Or, he assumes that the foetus should be sacrificed as its mother was, because the verbal noun (*maṣḍar*) [signifying the act of sacrifice] and its adjective (*siffah*) have been omitted and replaced by a noun governed by a genitive construction (*muḍāf ilayhi*). In this case, the foetus must be slaughtered if it emerges alive. Some also narrate this ḥadīth putting the word “*dhakāt*” in the accusative case both times, i.e:

ذَكُّوا الْجَنِينَ ذَكَاةَ أُمِّهِ

(*Dhakkū al-janīna dhakāta ummihi*)

Sacrifice the foetus like you sacrifice its mother.

This is the end of what Ibn Athīr says.

According to the last two narrations, the foetus must be slaughtered Islamically before it is ḥalāl to eat it; whereas there are two possible meanings of the first narration. The first is that the sacrifice of the foetus is fulfilled by the sacrifice of its mother. The second is that the sacrifice of the foetus should be carried out in the manner of the sacrifice of its mother, by means of meticulous emulation.⁶⁸

Imām ash-Shāfi‘ī and others accepted the requirement of the famous (*mashhūr*) narration—in which the word “*dhakāt*” is nominative in both cases.

Imām Abū Ḥanīfah and others—including Ibn Ḥazm az-Zāhiri⁶⁹—accepted the requirement of the latter two narrations, and each side support their position with additional proofs. Allāh knows best.

Furthermore, al-Qāḍī ‘Iyāḍ رحمته, in his marvellous book, *Al-Ilmā’*⁷⁰, warns about the necessity of correct pronunciation, writing and vocali-

68 From *An-Nukat al-Tarīfah* by al-Allāmah al-Kawtharī رحمته, p. 62. For those who say it is necessary to establish the authenticity of the accusative case narration, the response to this will be given at the end of the work in the section on the last doubt surrounding the Fourth Reason. I repeat the reminder that I gave in my commentary on p. 60: that the opinions and proofs of the scholars (*ulamā’*) which I cite are those relevant and useful in the context; however, every opinion and position (*madhhab*) has many additional proofs in each matter.

69 See *Al-Muḥallā*, Vol. 7, p. 419.

70 P. 150.

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sation, saying: “There has been disagreement among the scholars due to their differences of opinion about grammatical inflection (*irāb*):

For example, their difference of opinion concerning the saying of [the Prophet] ﷺ:

ذَكَاةُ الْجَنِينِ ذَكَاةُ أُمِّهِ

(*Dhakāt al-janīn dhakāt ummihi*)

The sacrifice of the foetus is the sacrifice of its mother.

The Ḥanafis prefer to vocalise the word “*dhakāt*” with a *fathah* the second time it occurs, in accordance with their view that the foetus should be sacrificed in the same manner as its mother. Others from among the Mālikīs and the Shāfi‘īs prefer to make it nominative (*raf’*)—in accordance with their view that its sacrifice is not required.

Similarly, the saying of [the Prophet] ﷺ:

لَا نُورَثُ، مَا تَرَكَنَاهُ صَدَقَةٌ

(*Lā nūrathu, mā taraknāhu ṣadaqatun*)

We do not leave an inheritance, what we leave is alms.

The majority (*al-jamā‘ah*) prefer to narrate it making the word ‘*ṣadaqah*’ nominative (*raf’*) regarding it as the predicate (*khabar*) of the subject (*mubtada’*)—in accordance with their view that the prophets do not leave an inheritance. Others from among the Imāmīs [Twelver Imāmī Shī‘ī school of law] prefer to vocalise it with a *fathah*, regarding it as an accusative of specification (*tamyīz*), specifying what the prophets leave as alms (*ṣadaqah*). That is, they only leave as inheritance what they do not leave as alms⁷¹. But if this were the case, the Prophet ﷺ would not have differentiated them from others, and his specification of the prophets would be meaningless. However, an-Naḥās permits making [the word ‘*ṣadaqah*’] accusative (*naṣb*) as an example of a circumstantial phrase (*ḥāl*)⁷².

Likewise, what [the Prophet] ﷺ said in the ḥadīth:

71 Shaykh al-Islām Zakariyyā al-Anṣārī رحمته gave the following explanation in *Fath al-Baqi*, Vol 2, P. 120: “The Mu‘tazilis make the word “*ṣadaqah*” accusative, as a form of grammatical specification (*tamyīz*), and make “*mā taraknāhu*” a second object (*maḥḥūl thānīyan*) of the verb “*nuwarriṭh*”; i.e. *Lā nuwarriṭhu mā taraknāhu ṣadaqatan, bal milkan*”.

72 See also a further explanation from Ibn Mālik in *Shawāhid at-Tawḍīḥ*, p. 154.

هو لك عبد ابن زمعة

(Huwa laka 'Abd ibn Zam'ah)

It is for you, 'Abd ibn Zam'ah.

The majority narrated it with the word "Abd" in the vocative case (*raf'*), indicating address (*nidā'*), and made the word "ibn" follow it, by vocalising the qualifying word (*nāt*) of the singular addressee (*munādā mufrad*) with either a *dammah* or a *fathah*.

The Ḥanafīs assume that the word "Abd" is likely to take nunnation (*tanwīn*), viewing it as the subject (*mubtada'*); as in:

هو الولد لك عبد

(Huwa al-walad laka 'abdun)

He, the child, is your servant.

They make 'ibn Zam'ah' accusative (*naṣb*), viewing it as an added address (*nidā' mudāf*).

There are countless examples of this kind of difference of opinion concerning grammatical inflection among the scholars." [This is the end of Qāḍī 'Iyād's remark.]

Another illustrative example is the saying of the Prophet ﷺ:

في كل سائمة إبل في أربعين: بنت لبون، لا يُفَرَّق إبل عن حسابها، من أعطاهَا مُؤَنَجِرًا فله أجرها، ومن منعها فإننا أخذوها وشَطَرَ مَالِهِ، عَزَمَةٌ من عَزَمَات ربنا عَزَّ وَجَلَّ، وليس لِأَلِ مُحَمَّدٍ مِنْهَا شَيْءٌ

In every group of forty free-grazing camels, one two-year-old she-camel (*bint labūn*) is due as zakāt. No camel is to be separated from the rest of the camels. Whoever gives it [willingly] seeking reward from Allah, will be rewarded. And whoever refrains from paying it, it will be taken [by force] along with a part of his wealth [as punishment], for it is a strict order from our Lord Almighty. None of it is lawful for the family of Muhammad.

It was narrated by Abū Dawūd and an-Nasā'ī⁷³.

There have been differences of opinion concerning the exact vocalisa-

73 Abū Dawūd, Vol. 2, p. 233, ḥadīth 1575, and an-Nasā'ī (*Aṣ-Ṣughrā*), Vol. 5, p. 15, ḥadīth 2444

tion of "and a part of his wealth" (*'wa shaṭra mālihi*). Is it with a *fathah* on the letters *shīn* and *rā'*, making it the first part of a genitive construction (*muḍāf wa muḍāf ilayhi*)? Or is it with a *dammah* on the letter *shīn* and a *kasrah* on the doubled consonant *ṭā'* and a *fathah* on the letter *rā'* (*'shuṭṭira*), on the basis that it is a perfect tense passive verb, where the subject of the verb (*fā'il*) is not mentioned and what follows it is a substitute subject (*nā'ib fā'il*)?

The meaning of the ḥadīth differs depending on the exact vocalisation, since the first version (*'wa shaṭra mālihi*) means that: whoever prevents the payment of zakāt, is punished by having it taken out of his money, in addition to which part of his money is also taken. This is the famous interpretation, even though the general body of scholars do not implement it. This interpretation is also connected to the issue of punishment (*'uqūbah*) and penalty (*ta'zīr*) by means of taking money. It is said that Imām Aḥmad took this position to an extent, and Allāh knows best⁷⁴.

The second version (*'wa shuṭṭira māluhi*) means that his money is divided into two parts. The person collecting alms (*ṣadaqah*), the zakāt collector, chooses which of these he prefers and takes the alms from the better of the two portions. Imām Ibrāhīm al-Ḥarbī, one of the most respected students of Imām Aḥmad, who was considered a model of knowledge, piety and asceticism, preferred this interpretation. Al-Ḥarbī attributed an error in the narration of the ḥadīth to the narrator.

Before moving on to discuss the second reason for differences of opinion amongst the scholars (*'ulamā'*), we must turn our attention to two confusing arguments which occupy a place in the minds of many people. They are:

1. If the ḥadīth is rigorously authenticated (*ṣaḥīḥ*), then it is my position (*madhhab*).
2. The rigorous authenticity of a ḥadīth is [reason] enough to act upon it.

The first argument is formulated as follows:

74 See *Al-Ḥisbah fi 'l-Islām*, p. 13, by Imām Ibn Taymīyyah رحمه الله; see also *Sharḥ al-Qāmūs* by az-Zabīdī, the last entry for "شَطَرَ"; the interpretation of the ḥadīth in *At-Talkhīṣ al-Ḥabīr*, Vol. 2, p. 160; and *Fath al-Bārī*, Vol. 17, p. 123, the last part of the explanation of the first ḥadīth of the Book of Tawḥīd.

Imām ash-Shāfiʿī ۞ said: "If the ḥadīth is rigorously authenticated (*ṣaḥīḥ*), then it is my position (*madhhab*)". Now, let us say that a certain ḥadīth is indeed rigorously authenticated and found in the *Ṣaḥīḥan* [al-Bukhārī and Muslim], for example. Therefore, if we act upon it, we will be acting upon an established sunnah. We will also be acting upon the position of a reliable Imām, one of the leaders of the Muslims. It is therefore illogical to say that the position of ash-Shāfiʿī consists only of what has been written about him in the books of his school (*madhhab*).

The response to this is that the statement: "If a ḥadīth is rigorously authenticated (*ṣaḥīḥ*), then it is my position," was said not only by Imām ash-Shāfiʿī and other Imāms. Rather, it is expressed instinctively by every Muslim who understands the words, "There is no god but Allāh and Muḥammad is the Prophet of Allāh" (*Lā illāha illa Allāh, Muḥammad Rasūl Allāh*).

This statement of ash-Shāfiʿī was related by Ibn Kathīr in his *Tafsīr*, at the end of his discussion of the Middle Prayer (*Aṣ-Ṣalāt al-Wuṣṭā*) and the fact that it is the Afternoon Prayer (*Ṣalāt al-ʿAṣr*). He commented: "It is a sign of his mastery [of fiqh] and his trustworthiness, which is also the way of his brother Imāms, may Allāh have mercy on them and be pleased with them all."

Al-Ḥāfiẓ Abū Zurʿah al-ʿIrāqī said in *Al-Ajwibat al-Marḍīyah* (p. 68): "I do not consider it permissible for someone with knowledge and understanding of the difference between a rigorously authenticated (*ṣaḥīḥ*) ḥadīth and an unsound (*ṣaqīm*) one, proficiency in the principles of jurisprudence (*Usūl*) and the Arabic language, and knowledge of the differences of opinion among the first generations of Muslims (*Salaf*) and the sources which they took from, that if he finds a rigorously authenticated ḥadīth which contradicts what his Imām says, he ignores the *ṣaḥīḥ* ḥadīth in favour of what his Imām teaches⁷⁵."

Moreover, the intended meaning of the above statement is: If the ḥadīth is appropriate to act upon [and not just rigorously authenticated],

⁷⁵ See also what Ibn ash-Shiḥnah says after a few lines and what Ibn aṣ-Ṣalāḥ says on p. 80, but consider also the effect of these words of Abū Zurʿah's: "...and knowledge of the difference of opinion among the first generations of Muslims (*Salaf*) and their proofs". He is explicit about demonstrating proofs of their statements, if only to be used as an aid in judging between them. Those who have attained such a high level of learning are few or deceased.

then it is my position. I leave clarification of this to a number of Imāms in the Ḥanafī, Shāfiʿī and Mālikī schools of law, who have made clear that this is the intended meaning and who it applies to.

From the Ḥanafī school, al-ʿAllamah Ibn ash-Shiḥnah al-Kabīr al-Ḥalabī al-Ḥanafī, the Shaykh of al-Kamāl Ibn al-Humām, may Allah Most High have mercy on them both, stipulated at the beginning of his Commentary on *Al-Hidāyah*: "If a ḥadīth is rigorously authenticated but contradicts the position of the [Ḥanafī] school, the ḥadīth will be acted upon, making that his [i.e. Abū Ḥanīfah's] position. A follower of Abū Ḥanīfah who acts upon such a ḥadīth will not stop being an adherent of the Ḥanafī school, since it is true that he—Imām Abū Ḥanīfah—said: 'If a ḥadīth is rigorously authenticated, then it is my position.' This was related by Ibn ʿAbd al-Barr from Abū Ḥanīfah and other Imāms." This is the end of what Ibn ash-Shiḥnah said.

Ibn ʿAbidin⁷⁶ quoted this remark by Ibn ash-Shiḥnah, commenting: "Imām ash-Shāʿrānī also transmitted it from the four Imāms. It is clear that this applies to those who are qualified to examine ḥadīth texts and to differentiate between those that are clear (*muḥkam*) and those that are abrogated (*mansūkh*). Thus, if adherents of a particular legal school examine the evidence and act upon it, then it is correct to attribute it to the school, since it has been promulgated with the permission of the school's founding Imām. For there is no doubt that had the Imam become aware of the weakness of his evidence, he would have rejected it in favour of the stronger evidence."

He also said⁷⁷: "Whatever is supported by a rigorously authenticated ḥadīth, without contradiction, then it is the position of the independent (*mujtahid*) jurist, whether or not he stipulates it. This is based on what we presented in the sermon (*khuṭbah*), from al-Ḥāfiẓ ibn ʿAbd al-Barr and al-ʿArif ash-Shāʿrānī, from the four Imāms, that they each said: 'If a ḥadīth is rigorously authenticated, then it is my *madhhab*.'"

Ibn ʿAbidin also discussed this view in his work: *Sharḥ Rasm al-Muftī*⁷⁸, transmitting what Ibn ash-Shiḥnah said, and stipulating the same restrictions as above from his *Ḥāshiyah*—word for word—adding a further

⁷⁶ At the beginning of his *Ḥāshiyah*, Vol. 1, p. 68.

⁷⁷ Vol. 1, p. 258.

⁷⁸ Vol. 1, p. 24 from *Majmūʿ Rasāʾil Ibn ʿAbidin*.

restriction: "It is also my view that it is necessary to stipulate that [the ḥadīth] agrees with a position within the legal school, since independent legal reasoning (*ijtihād*) according to what is outside the school is not permitted. This is a matter which our Imāms agree upon. They are better able to formulate independent legal opinions than [the individual adherent of the legal school]. So clearly they saw stronger evidence than that which he saw, which persuaded them not to accept the ḥadīth."⁷⁹

I would like to draw attention to two issues:

First, that some deceivers quoted what Ibn ash-Shiḥnah said from Ibn 'Abidīn's *Hāshiyah*, giving people the impression that Ibn 'Abidīn did not comment on it, and giving them to understand that this is the opinion of the scholars ('*ulamā*') of the [Ḥanafī] school and of Ibn 'Abidīn, the school's last late, great inquirer, in particular.

In the same way, they quoted from *Al-Mizān Al-Kubrā* by Ash-Sha'rānī, hiding behind his words and telling the people: 'He is a revered Ṣūfī scholar, whose teachings are accepted by those who follow the Imāms of the schools of law!' This is [indeed] the case. However, it is truth with the intention of falsehood, truth dressed as falsehood.

The second issue is that Ibn 'Abidīn's comment on Ibn ash-Shiḥnah's statement: "... It is clear that this applies to those who are qualified..." is of profound importance, since the phrase, "It is clear", is equivalent to what we say today: 'It is self-evident'. He considers this restriction to be self-evident and uncontested, a matter about which there should be no ignorance or hesitation in accepting. It is self-evident, for example, that if someone says, "The sun is rising," this means that it is daytime, rather than night. Likewise, the words of the Imām: "If the ḥadīth is rigorously authenticated, then it is my position", convey a self-evident, uncontested meaning, about which there can be no hesitation: that this statement applies to those who are qualified to examine ḥadīth texts and to differentiate between those that are clear and those that are abrogated or otherwise. It is, therefore, not permissible for the ignorant, nor the (half-) educated and presumptuous, to dare to assume this position!

⁷⁹ He then said, p. 25: "But perhaps our Imāms forewent what they agreed upon out of necessity or similar, as was the case regarding the matter of remuneration for teaching the Qur'ān and similar pious acts."

These equivocating deceivers ignored this essential restriction. Surely, we belong to Allāh and to Him we will return.

Ibn ash-Shiḥnah's statement and the restriction placed upon it by Ibn 'Abidīn in his *Hāshiyah* were quoted by the exegete (*mufasssīr*), ḥadīth scholar (*muhaddith*) and jurist (*faqīh*), al-'Allāmah Faḍīlat al-Shaykh 'Abd al-Ghaffār 'Uyūn as-Sūd al-Ḥimṣī al-Ḥanafī (born in the month of Ṣafar in the year 1290/1873, he died 27 Rabī' ath-Thānī 1349/1930), in his useful and extensive work *Daf' al-Awhām 'an Mas'alat al-Qirā'ah Khalf al-Imām*⁸⁰. He commented: "This is a sound (*ḥasan*) restriction, because we see in our time many who attribute to themselves knowledge in conceit, thinking they are above the stars when in fact they are on the lowest lowland. Such a person might peruse one of the six books of the *Sunnah*, for example, find there a ḥadīth that contradicts the position (*madhhab*) of Abū Ḥanīfah, and say: Abandon the position of Abū Ḥanīfah and adopt the ḥadīth of the Messenger of Allāh! However, this ḥadīth might be abrogated or in opposition to a ḥadīth with a stronger chain of transmission (*sanad*) or subject to other such reasons for not acting upon it, without him being aware of it. If such people were left to act upon a ḥadīth without restrictions, they would deviate in many matters and mislead those who came to them for guidance."⁸¹

At this point those who pretend to call for the implementation of the *Sunnah* become angry and say: 'Is it permissible for you to judge as misguided someone who implements the *Sunnah* and uses it to counsel

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⁸¹ To clarify the impression made by this statement and about whom it was intended, I will mention the reason for the Shaykh's composition of the work from which it was quoted, as related to me by his nephew, our Shaykh the al-'Allāmah Shaykh 'Abd al-'Azīz 'Uyūn as-Sūd. He told me: "A man came from Ṭarābulus"—ash-Shām—"to Ḥimṣ and said to the Shaykh"—meaning his uncle: "A man appeared among us, saying: 'Whoever doesn't read *Fatīhat al-Kitāb* behind the Imām is a *kāfir* (unbeliever)!'" When asked about this, he said: "Because whoever does not read it, does not perform his prayer (*ṣalāh*) correctly; and whoever does not perform his prayer correctly, it is as if he has not prayed; and whoever does not pray is a *kāfir*!" The man from Ṭarābulus begged the Shaykh in the hope that he—"Abd al-Ghaffār"—"would write him an unequivocal reply to this. So he wrote this work for him in one sitting in the space of two hours, calling it *Daf' Al-Awhām*, and gave it to the man. The Shaykh then showed it to some of the '*ulamā*' of Ḥimṣ, who praised it. He then had it printed."

In my view, these remarks—by someone with pretensions to being an independent jurist (*mutamajhid*)—remind me of the words of the poet:

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restriction: "It is also my view that it is necessary to stipulate that [the ḥadīth] agrees with a position within the legal school, since independent legal reasoning (*ijtihād*) according to what is outside the school is not permitted. This is a matter which our Imāms agree upon. They are better able to formulate independent legal opinions than [the individual adherent of the legal school]. So clearly they saw stronger evidence than that which he saw, which persuaded them not to accept the ḥadīth."⁷⁹

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people?' To this we say: Yes, if he is not qualified for this position, then we judge him to be misguided, not because he implements the Sunnah—Allāh forbid—but because he has had the audacity to assume a position for which he is not qualified.

Of the same opinion was one of the Imāms of ḥadīth and fiqh scholarship, Imām Abū Muḥammad 'Abd Allāh Ibn Wahab al-Miṣrī, one of the most renowned students of Imām Mālik in al-Madīnah al-Munawwarah, and of Imām al-Layth ibn Sa'd in Egypt. He said ﷺ: "Ḥadīths are misleading, except for the scholars (*ulamā*)."⁸²

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From among the Shāfi'is, Imām an-Nawawī ﷺ discussed this view in brief in *Tahdhīb al-Asmā' wa'l-Lughāt*⁸⁴, saying: Ash-Shāfi'ī ﷺ was careful and ordered—which is established from him in different ways—that rigorously authenticated ḥadīths should be acted upon, and that anything he said which contradicts an established and unambiguous text should be abandoned. His followers ﷺ followed these instructions, applying them to many famous issues, such as saying: '*Aṣ-ṣalāt khair min an-naẓm*' during the adhān for the Morning Prayer (*at-tathwīb*), and making the termination of the state of ritual consecration (*iḥrām*) during Ḥajj conditional upon sickness and the like, as well as other well-known matters. However, there is a condition for this which few meet in these times⁸⁵, which I clarified in the Introduction to *Sharḥ al-Muḥadhdhab*."

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The reason for this condition is that ash-Shāfi'ī ﷺ stopped acting upon the apparent meaning of many ḥadīths which he had come across and knew, but which the evidence persuaded him to discredit or consider abrogated⁸⁷, restrict to specific circumstances, interpret or otherwise.

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This supremacy of scholarship and scholars prevents the occurrence of such distractions in matters of faith (*dīn*). The reader is aware—after approximately two and a half centuries—of what happened to Imām as-Suyūṭī ﷺ at the hands of the scholars (*ulamā*) of his day, although he was never dislodged from his claim [of having attained the status of an independent jurist (*mujtahid*)]. What then, if there had come to them the likes of the person who came to me—whose story I explained in the Introduction?!! Your forgiveness, O Allāh!

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Shaykh Abū 'Amr—that is, Imām Ibn aṣ-Ṣalāḥ رحمہ اللہ⁸⁸ said: “To act according to the literal meaning of what ash-Shāfi‘ī said is not a trivial matter, since it is not permissible for every jurist to independently act upon what he sees as proven by the ḥadīth. Among those who followed this method, are Shāfi‘īs who acted upon a ḥadīth which ash-Shāfi‘ī رحمہ اللہ deliberately abandoned in the knowledge that it was rigorously authenticated. This was due to an objection which he was aware of but which was not apparent to others, such as Abū'l-Walid Mūsā ibn Abī al-Jārūd—one of ash-Shāfi‘ī's companions—who said:

‘The ḥadīth: “The person performing cupping (*ḥijāmah*) and the person upon whom it is performed break their fast”, is rigorously authenticated. So, I say [i.e. Abū'l-Walid]: Ash-Shāfi‘ī said: “The person performing *ḥijāmah* and the person upon whom it is performed break their fast.”’

The scholars rejected this claim of Abū'l-Walid, because ash-Shāfi‘ī abandoned it in the knowledge that [the ḥadīth] was rigorously authenticated, due to the fact that he considered it abrogated. Ash-Shāfi‘ī explained its abrogation and provided proofs.⁸⁹ This is the end of what an-Nawawī says and his citation from Ibn aṣ-Ṣalāḥ⁹⁰.

I feel it is necessary to add here what al-'Allāmah al-Kawtharī briefly refers to in his statement which will appear subsequently⁹¹, and which is explained as follows:

It may become apparent that the Imām of the school of law made this statement without exerting effort himself, but rather by following someone else; and the truth becomes clear and proof against his statement

p. 12a—having quoted extensively from his Shaykh, Ibn Hajar: “It has been written that what they meant by ‘*ṣaḥīḥ*’ is: that which it is obligatory to act upon”, in that there are no objections to it, or the like.

88 In *Adab al-Muftī wa'l-Mustaftī*, p. 118.

89 See Imām ash-Shāfi‘ī, *Ikhtilāf al-Ḥadīth*, from his book, *Al-Umm*, Vol. 5, p. 529; and *Al-Majmū'*, Vol. 6, p. 402.

90 See also *Al-Ajwibah al-Mardīyyah 'an al-As'ilah al-Makkīyah*, by al-Ḥafīz Walī ad-Dīn Abū Zur'ah al-'Irāqī رحمہ اللہ, p. 25; there is no call for citing what he says in extensively, since the conclusion is the same as here.

91 Al-'Allāmah al-Kawtharī, in his book *Al-Maqālāt*, says: “There are issues in which Abū Ḥanīfah follows the examples of Shurayḥ and an-Nakhā'i, without taking pains to become acquainted with the evidence for some of their statements. . . it is not correct to attribute to Abū Ḥanīfah's independent reasoning that in which he followed others without [knowing their] evidence. . .” See p. 120 [for the full remark].

emerges; and the mistake of the person whose opinion the Imām followed becomes clearly evident.

In this case, it is not correct to attribute this statement to the Imām which is at variance with clear proof, because independent reasoning (*ijtihād*) is practised in areas in which there is no textual proof.

Ibn Ḥibbān رحمہ اللہ was even hastier than Abū'l-Jārūd, since he said in his *Ṣaḥīḥ*⁹²: “Every principle which we have spoken about in our books, or ruling of fiqh which we have derived from the *Sunan* (pl. of Sunnah) in our works, all of it is what ash-Shāfi‘ī said, and he will be considered to have retracted from what is in his books, despite it being his well-known position; because I heard Ibn Khuzayma say that he heard al-Muzanī say that he heard ash-Shāfi‘ī say: ‘If you view a ḥadīth as rigorously authenticated from the Messenger of Allāh ﷺ, adopt it and leave what I say.’”

I do not know how Ibn Ḥibbān dared to discard the books of ash-Shāfi‘ī in favour of what he himself established and derived in his books, viewing it as the position of ash-Shāfi‘ī, on account of this vague statement!!

To this statement of Ibn Ḥibbān's we say: This statement, or similar, is also correctly reported from other Imāms, so why does he not attribute what he established and derived to them as well?

Al-'Allāmah al-Kawtharī [also] said⁹³: “Ash-Shāfi‘ī's statement, ‘If the ḥadīth is rigorously authenticated, it is my position’, does not mean that every time someone says, ‘This is a rigorously authenticated ḥadīth,’ I adopt it, renouncing what I said previously. Rather, it means that if a ḥadīth is rigorously authenticated, fulfilling the necessary conditions, and its meaning is clear, then I should adopt it. If the case were otherwise, his *madhhab* would become confused.”

Abū Muḥammad al-Juwaynī was reproached for his attempt to compose a book compiling matters regarding which there are ḥadīths which he viewed as rigorously authenticated, attributing them to ash-Shāfi‘ī on the basis of this statement quoted from ash-Shāfi‘ī⁹⁴. It became apparent

92 Vol. 3, p. 435, from *Al-Iḥsān*.

93 In his comments on Imām Abū Yūsuf's biography of adh-Dhahabī رحمہ اللہ, p. 63.

94 It seems that the Shaykh رحمہ اللہ is referring to the correspondence between the two Imāms al-Bayhaqī and al-Juwaynī رحمہ اللہ, which at-Tāj as-Subkī gently discussed in his *Ṭabaqāt*, from Vol. 5, p. 76 onwards, in the biography of al-Juwaynī.

This correspondence was maintained and printed independently without an attributed source at the end of the first edition of *Majmū'at ar-Rasā'il al-Muniriyyah*.

to those with knowledge of ḥadīth that he was authenticating ḥadīths which did not qualify as rigorously authenticated, and attributing the opinions derived from them to ash-Shāfi'ī, so they prevented him from doing this.

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He goes on to say two lines later: "As for Ibn Abī 'l-Jārūd's story, the objection is to Ibn Abī 'l-Jārūd's insufficient research, not to ash-Shāfi'ī statement itself and the possibility of following it. One of those who agreed with Ibn Abī 'l-Jārūd on this matter is Abū 'l-Walid an-Nisābūrī Ḥassān ibn Muḥammad, a descendant of Sa'īd ibn al-ʿĀṣ, one of our great Shāfi'ī scholars, who passed away in the year 349/960. He would swear by Allāh that it was the position of ash-Shāfi'ī that the person performing cupping (*hijāmah*) and the person upon whom it is performed break their fast, on that basis. Our companions deemed him to be mistaken based on what has preceded—that ash-Shāfi'ī abandoned this ḥadīth in the knowledge that it is rigorously authenticated, because he viewed it as abrogated⁹⁸—in the same way that they deemed Ibn Abī 'l-Jārūd to be mistaken. It is a matter about which some independent jurists (*mujtahidūn*) are mistaken; however, it is difficult to show that this is a mistake, due to the variety of ways in which it is understood.

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⁹⁵ This was printed in the second volume of *Majmū'at ar-Rasā'il al-Muniriyyah*, p. 98–114; then it was printed separately to a good standard of printing and editing.

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⁹⁸ See what al-Ḥāfiẓ adh-Dhahabī ʔ says in the biography of Abū 'l-Walid in *Siyar A'lam an-Nubalā'*, Vol. 15, p. 493, and *Tadhkirat al-Ḥuffāẓ*, Vol. 3, p. 895.

in the Morning Prayer (*Ṣalāt aṣ-Ṣubḥ*), saying: "I consider it rigorously authenticated that the Prophet ʔ omitted the *qunūt* from *Ṣalāt aṣ-Ṣubḥ* . . ."

"So I omitted"—the speaker is as-Subkī himself—"the *qunūt* from *Ṣalāt aṣ-Ṣubḥ* for a period, then I learnt that what [the Prophet] ʔ said about the *qunūt* in *Ṣalāt aṣ-Ṣubḥ* which has been rigorously authenticated is: [Omitting] *duʿā'* (supplication) against [the tribes of] Ri'l and Dhakwān, and in other than *Ṣalāt aṣ-Ṣubḥ*. With regards to omitting the *duʿā'* without exception after standing (*qiyām*) in *Ṣalāt aṣ-Ṣubḥ*, there is the ḥadīth of ʿĪsā ibn Māhān; what has been said about it is well-known [i.e. the ḥadīth is not authenticated] and this is not the place to write about it. So I reverted to reciting *qunūt* [in *Ṣalāt aṣ-Ṣubḥ*] and I do so currently. There is no objection in any of this about what ash-Shāfi'ī said, but rather we see our inadequacy in some respects." This is the end of what Imām as-Subkī said.

This text contains a warning to those who consider! If this was Ibn Abī 'l-Jārūd's state—a pupil of ash-Shāfi'ī, whose status in terms of learning is well-known. . . and similar to him and even more revered Abū 'l-Walid an-Nisābūrī—who is not only a ḥadīth narrator but is someone who both narrates and understands—yet he attributed to ash-Shāfi'ī, swearing by Allāh, that he acted upon a ḥadīth which ash-Shāfi'ī had deliberately abandoned because he viewed it as abrogated (*mansūkh*). . . If this is the state of such as these, what can be said about the people of our time⁹⁹? Is

⁹⁹ Al-Ḥāfiẓ adh-Dhahabī ʔ said in *At-Tadhkirah*, pp. 627–628, at the end of what he said about the men [ḥadīth narrators] of the ninth rank, who passed away between the years 258/871 and 282/895: "Shaykh, be kind to yourself, be fair: do not look askance at these great memorisers of ḥadīth (*ḥuffāẓ*), do not look at them with blame or think that they are like the ḥadīth narrators (*muḥaddithūn*) of our time (673/1274–748/1347)—far from it! None of the great *muḥaddithūn* of our time have reached their level of knowledge. I suppose, due to your strength of feeling, you feel—even if you don't actually say: Who is Aḥmad? What is Ibn al-Madini? What do Abū Zur'ah and Abū Dawūd amount to? Be silent and patient or speak with learning! Beneficial learning is that which such as these have produced. We are in relation to the Imāms of fiqh what the *muḥaddithūn* of our era are in relation to the Imāms of ḥadīth. Neither we nor you know the superiority of the people of superiority (*ahl al-fadl*), only those who possess it do so."

He goes on to say on p. 948 in the biography of al-Isma'īlī, author of *Al-Mustakhraj* of the *Ṣaḥīḥ* of al-Bukhārī: "He compiled the *Musnad* of ʿUmar ʔ, which I studied and made notes on, and I was astonished with this Imām's high standard of memorisation. I resolved that the later [scholars] (*al-mutakhkhirūn*) have no hope of reaching the level of the earlier [scholars] (*al-mutaqaddimūn*)."

This is what al-Ḥāfiẓ an-Nāqid adh-Dhahabī said in the eighth/fourteenth century, when many of the late great *muḥaddithūn* lived. At the beginning of the century there was Imām Shaykh

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⁹⁶ P. 102.

⁹⁷ I.e. Someone who dares to assume this position without being qualified for it: this is an overweening person.

⁹⁸ See what al-Ḥāfiẓ adh-Dhahabī ʔ says in the biography of Abū 'l-Walīd in *Siyar A'lam an-Nubalā'*, Vol. 15, p. 493, and *Tadhkirat al-Ḥuffāẓ*, Vol. 3, p. 895.

in the Morning Prayer (*Ṣalāt aṣ-Ṣubḥ*), saying: "I consider it rigorously authenticated that the Prophet ʔ omitted the *qunūt* from *Ṣalāt aṣ-Ṣubḥ* . . ."

"So I omitted"—the speaker is as-Subkī himself—"the *qunūt* from *Ṣalāt aṣ-Ṣubḥ* for a period, then I learnt that what [the Prophet] ʔ said about the *qunūt* in *Ṣalāt aṣ-Ṣubḥ* which has been rigorously authenticated is: [Omitting] *du'ā'* (supplication) against [the tribes of] Ri'l and Dhakwān, and in other than *Ṣalāt aṣ-Ṣubḥ*. With regards to omitting the *du'ā'* without exception after standing (*qiyām*) in *Ṣalāt aṣ-Ṣubḥ*, there is the ḥadīth of 'Isā ibn Māhān; what has been said about it is well-known [i.e. the ḥadīth is not authenticated] and this is not the place to write about it. So I reverted to reciting *qunūt* [in *Ṣalāt aṣ-Ṣubḥ*] and I do so currently. There is no objection in any of this about what ash-Shāfi'ī said, but rather we see our inadequacy in some respects." This is the end of what Imām as-Subkī said.

This text contains a warning to those who consider! If this was Ibn Abī 'l-Jārūd's state—a pupil of ash-Shāfi'ī, whose status in terms of learning is well-known. . . and similar to him and even more revered Abū 'l-Walīd an-Nisābūrī—who is not only a ḥadīth narrator but is someone who both narrates and understands—yet he attributed to ash-Shāfi'ī, swearing by Allāh, that he acted upon a ḥadīth which ash-Shāfi'ī had deliberately abandoned because he viewed it as abrogated (*mansūkh*). . . If this is the state of such as these, what can be said about the people of our time⁹⁹? Is

⁹⁹ Al-Ḥāfiẓ adh-Dhahabī ʔ said in *At-Tadhkirah*, pp. 627–628, at the end of what he said about the men [ḥadīth narrators] of the ninth rank, who passed away between the years 258/871 and 282/895: "Shaykh, be kind to yourself, be fair: do not look askance at these great memorisers of ḥadīth (*ḥuffāẓ*), do not look at them with blame or think that they are like the ḥadīth narrators (*muḥaddithūn*) of our time (673/1274–748/1347)—far from it! None of the great *muḥaddithūn* of our time have reached their level of knowledge. I suppose, due to your strength of feeling, you feel—even if you don't actually say: Who is Aḥmad? What is Ibn al-Madīnī? What do Abū Zur'ah and Abū Dawūd amount to? Be silent and patient or speak with learning! Beneficial learning is that which such as these have produced. We are in relation to the Imāms of fiqh what the *muḥaddithūn* of our era are in relation to the Imāms of ḥadīth. Neither we nor you know the superiority of the people of superiority (*ahl al-faḍl*), only those who possess it do so."

He goes on to say on p. 948 in the biography of al-Isma'īlī, author of *Al-Mustakhraj* of the *Ṣaḥīḥ* of al-Bukhārī: "He compiled the *Musnad* of 'Umar ʔ, which I studied and made notes on, and I was astonished with this Imām's high standard of memorisation. I resolved that the later [scholars] (*al-mutakhkhirūn*) have no hope of reaching the level of the earlier [scholars] (*al-mutaqaddimūn*)."

This is what al-Ḥāfiẓ an-Nāqid adh-Dhahabī said in the eighth/fourteenth century, when many of the late great *muḥaddithūn* lived. At the beginning of the century there was Imām Shaykh

it permissible for them to apply to Imām ash-Shāfi'ī the consequences of what he said, when they do not understand a word of it!

This Abū al-Ḥasan al-Karajī was described by as-Subkī, as you have seen, as a jurist and ḥadīth scholar, and by his pupil, as-Sam'ānī, as "a pious, learned and rational Imām, *faqīh*, muftī and *muḥaddith*, poet (*shā'ir*) and author (*adīb*)"¹⁰⁰. Despite this he abandoned the *qunūt* in contradiction of the Imām of his school of law, based on the argument that the ḥadīth is rigorously authenticated and that his Imām says: 'If the ḥadīth is rigorously authenticated, it is my position,' and 'Leave what I say, and adopt the ḥadīth'. Yet those who succeeded him criticised him for this, including at-Tāj as-Subkī, when he wrote his biography in *Ṭabaqāt ash-Shāfi'iyyah*. Having ascribed to him the above opinion, [at-Tāj as-Subkī] said¹⁰¹: "Before him are two obstacles which are extremely difficult [to overcome]: [Firstly,] the rigorous authenticity (*ṣiḥḥah*) of the ḥadīth—on the prohibition of the *qunūt*—which is far from the case! This is very difficult to arrive at, very tough. [Secondly,] that it is the position of ash-Shāfi'ī—i.e. omission of the *qunūt*—which is also difficult."

Similarly: Imām at-Taḳī as-Subkī would recite the standing supplication (*qunūt*) in the Dawn Prayer (*Ṣalāt al-Fajr*), according to the Shāfi'ī school of law, which he grew up practising. Then, when he became aware of the story of al-Karajī, he abandoned the *qunūt*; then, you will see that he returned to it. As-Subkī is the Imām who has been accurately described as: the Absolute *Mujtahid* (*al-Mujtahid al-Muṭlaq*) i.e. one who formulates opinions based entirely on legal principles or: the *Mujtahid* within the school of law (*al-Mujtahid fi'l-Madhhab*). His contemporary and companion, al-Ḥāfiẓ adh-Dhahabī—there was something of a competitive rivalry between them—described him as the Shaykh of his Age in ḥadīth and

al-Islām Ibn Daqīq al-'Id (702/1302) and at the end of the century there was 'the calm still sea' (*al-baḥr al-hādī' aṣ-ṣāmī*) that is al-Ḥāfiẓ ibn Rajab al-Ḥanbalī (795/1392), may Allāh have mercy on them all. So consider and reflect.

We do not see any of those mentioned claiming learning for themselves, let alone claiming that they have attained all learning, because they are intent on broadening their study of the Sunnah and devoting themselves to it in letter, spirit and deed. 'Alī ibn al-Madīnī says: "Deep understanding of the meanings of ḥadīth is half of learning, and knowledge of the ḥadīth narrators is half of learning." A person who personifies this statement will not find anyone to measure up to him!!

¹⁰⁰ Tāj as-Subkī, *Ṭabaqāt ash-Shāfi'iyyah*, Vol. 6, p. 138.

¹⁰¹ Vol. 2, pp. 138–139.

fiqh, saying to him when as-Subkī assumed responsibility for delivering the sermon (*khutbah*) at the Umayyad Mosque in Damascus:

Let the Umayyad minbar be congratulated

when ascended by al-Ḥākim al-Baḥr at-Taḳī,¹⁰²

Of all the Shaykhs of the age, the most mindful in preserving ḥadīth,
the most eloquent in sermonising, the most skilful in jurisprudence,
is 'Alī¹⁰³.

If as-Subkī—whose status in terms of learning is such—experienced this hesitation, is it then permissible for someone beneath him [in learning] to adhere to the external meaning of ash-Shāfi'ī's words, and hasten to act upon a rigorously authenticated ḥadīth, confusing himself and others by pretending to act upon the teaching of a revered Imām, one of the great Imāms of the Muslims, upon whom they depend? Why then should we criticise such a person?

Furthermore, as-Subkī quotes in the cited work¹⁰⁴ a long text from Imām Abū Shāmah al-Maqdisī, some of which is related to what we are currently discussing. As-Subkī prefaces this text by saying: "Abū Shāmah—the pupil of Ibn aṣ-Ṣalāḥ and Shaykh of an-Nawawī, and someone who goes to great lengths to follow ḥadīth—said. . ." He then quotes him, at the end of which Abū Shāmah says: "By no means should anyone attempt to practise this unless he is an expert in the science of independent legal reasoning (*ijtihād*). This is who ash-Shāfi'ī was addressing when he said: 'If you find a ḥadīth of the Messenger of Allāh which contradicts what I say, adopt it and leave what I said.' This is not for everyone."¹⁰⁵

¹⁰² I.e. the arbitrator, whose knowledge is vast as the sea.

¹⁰³ 'Alī: This is the name of at-Taḳī as-Subkī, who is 'Alī ibn 'Abd al-Kāfi as-Subkī. Adh-Dhahabī is alluding to the words of [the Prophet ﷺ]: "The most skilful of them in judgement is 'Alī," which was narrated by Ibn Mājah, Vol. 1, p. 55, ḥadīth 154 and 155, from Anas, with a sound chain of transmission (*isnād*); and Abū Ya'lā, Vol. 10, p. 141, ḥadīth 5763, from Ibn 'Umar, with an extremely weak *isnād*. It is also in *Al-Faqīh wa'l-Mutafaqqih*, Vol. 2, p. 139, from the ḥadīth of Jābir with a weak *isnād*. Al-Ḥāfiẓ [Ibn Ḥajar] did not ascribe the ḥadīth to them in *Al-Fath*, Vol. 8, p. 167, ḥadīth 4481.

¹⁰⁴ P. 106.

¹⁰⁵ Al-Ḥāfiẓ adh-Dhahabī described this Abū Shāmah in *At-Tadhkirah*, Vol. 4, p. 1460, as did as-Suyūṭī in *Ṭabaqāt al-Huffāẓ*, p. 507, and at the beginning of his book *Nazm al-Iqyān*, as: "al-Imām al-Ḥāfiẓ al-'Allamah al-Mujtahid".

Al-Bukhārī narrated in his *Ṣaḥīḥ*¹⁰⁶ on the authority of Ibn 'Umar, may Allāh be pleased with them both, that the Prophet ﷺ would raise his hands when he stood for the third unit (*rak'ah*) of prayer. The commentary on it, *Fatḥ al-Bārī*, has the following:

Al-Khaṭṭābī said: 'Ash-Shāfi'ī did not teach this. He adhered to his principle on accepting anything additional'. Ibn Khuzaymah said: 'It is a Sunnah and even if ash-Shāfi'ī did not mention it, the chain of transmission (*isnād*) is rigorously authenticated, and he [i.e. ash-Shāfi'ī] said: "Teach the Sunna and leave what I say."

Ibn Daqīq al-ʿId said: 'The logical view of ash-Shāfi'ī is that he regards as preferable (*mustaḥabb*) raising [the hands] in [the third] unit (*rak'ah*) of prayer because he establishes the raising of [the hands] when bowing (*rukū'*) and when rising from it. As for this being the position of ash-Shāfi'ī, due to his having said: 'If the ḥadīth is rigorously authenticated, it is my position', then this is problematic.' This is the end of [Ibn Daqīq's remark].

The problematic nature of this is that it is appropriate to act upon this teaching if it is known that ash-Shāfi'ī was not aware of this ḥadīth, whereas if it is known that he was aware of it and rejected it or interpreted it in some way, then it is not appropriate, and this issue is contentious."

Through this very important explanation from those pious Imāms of ḥadīth and fiqh, it has been clarified for us whom ash-Shāfi'ī intended by his words, and that he ﷺ did not intend those who consider themselves above knowledge (*ʿilm*) and the scholars (*ʿulamā'*), and who in reality are incompetent.

From the Mālikī scholars, the authority and expert on juristic principles, Imām Shihāb al-Dīn Abū'l-ʿAbbās al-Qarāfi al-Mālikī ﷺ, clarified in his book *Sharḥ at-Tanqīḥ*¹⁰⁷ what makes a person qualified for this position, saying:

Many Shāfi'ī jurists depend on this, saying: This is the position of ash-Shāfi'ī, because it is supported by a rigorously authenticated ḥadīth. This is a mistake, because it must be proven that a contradictory proof is not

106 Vol. 2, p. 365.

107 P. 450.

present; and knowing that a contradictory proof is not present is only possible for someone who is qualified to examine the [whole] Sharī'ah, until it is appropriate to say: 'There is nothing that contradicts this ḥadīth.' If someone other than an independent jurist who formulates opinions based entirely on legal principles (*mujtahid muṭlaq*) were to conduct such an investigation, it would be of no consequence. So any Shāfi'ī who makes the above statement should first become qualified to examine the Sharī'ah before giving this legal opinion.

That is: If we want to ascribe to ash-Shāfi'ī's *madhhab* a legal opinion based [solely] on the authenticity of the ḥadīth supporting it, it is not permissible for us to do so until we have conducted thorough research in order to be certain that no other contrary proof exists. Only someone who is qualified to examine the Sharī'ah in full—not just ḥadīths—will be able to say for certain that no other contrary proof exists. For this he must be a *mujtahid* and nothing less.

This statement of al-Qarāfi al-Mālikī reminds us of the statement of another Mālikī, Abū Bakr al-Mālikī¹⁰⁸, which he made in his biography of the great Imām Asad ibn al-Furāt ﷺ, who was a pupil of Imām Mālik in al-Madinah and Muḥammad ibn al-Ḥasan in Bagdad (Baghdād). He said: "It is well-known that Asad ﷺ would adhere to the teachings of the people of al-Madinah and Iraq (al-ʿIrāq) which accorded with what he considered to be the truth. It was his right to do this, because of his thorough study of the sciences, his research into them and the great number of scholars (*ʿulamā'*) and ḥadīth narrators (*muḥaddithīn*) whom he met."

Consider the three factors which qualified him for this: his thorough study of the sciences, his research into them and the great number of his teachers.

If consideration and deliberation were unnecessary and there were no prerequisite conditions, it would be permissible for anyone to attribute [a legal opinion] to such-and-such Imām for every issue about which he was convinced of the rigorous authenticity of the ḥadīth concerning it. Then someone else would attribute a teaching on the same issue to another Imām. Then a third person would become convinced of the

108 In *Riyād an-Nufūs*, Vol. 1, p. 263 in the edition of Ḥusayn Mu'nīs and Vol. 1, p. 263 in the new complete edition.

rigorous authenticity of an apparently contradictory ḥadīth on the same issue, and would attribute the teaching of it to the first and second Imāms. And so on and so on into endless confusion in knowledge (*‘ilm*) and chaos in religion (*dīn*), under the banner of: ‘If the ḥadīth is rigorously authenticated, it is my position’!!

Then the tear widens and the chaos spreads to the claim that there is consensus on every issue about which one of us is convinced of the authenticity of the ḥadīth concerning it! Because this concept—‘If the ḥadīth is rigorously authenticated, it is my position’—is the unspoken feeling of every scholar, indeed every Muslim, as I stated previously at the beginning of my discussion of this objection. We ask Allāh for protection.

If it is said: ‘What was the objective of the Imāms in making this and other similar statements, as understood by their students and those who came after them?’

The answer is what was stated by the investigator and expert in juristic principles, Al-‘Allāmah Mawlānā Shaykh Ḥabīb Aḥmad al-Kirānawī in the Second Introduction to *I’lā’ as-Sunan*, which was previously published under the title: *Inhā’ as-Sakan*, and has been newly republished under the title: *Qawā’id fi ‘Ulūm al-Fiqh*. He said ¹⁰⁹: “The truth of these statements is to show the true reality: that the authoritative source (*hujjah*) is the teaching of the Messenger of Allāh ﷺ, not my teaching. Do not assume that my teaching is an independent proof. I ask Allāh for absolution from anything which I have taught which contradicted the Messenger of Allāh ﷺ. This reality does not necessitate what was attributed to him ﷺ—i.e. ash-Shāfi‘ī—in terms of permission to attribute to him every teaching that is supported by a ḥadīth which the person considers rigorously authenticated. Be aware of this and do not be misled by words such as these. . .” to the end of his precise and concise remark.

The objection expressed by the above Imāms: Ibn ‘Ābidīn; Ibn aṣ-Ṣalāḥ; his student, Abū Shāmah; and Abū Shāmah’s student, an-Nawawī; as well as al-Qarāfi and as-Subkī, is summarised as follows: Only someone who has reached the level of independent legal reasoning (*ijtihad*), or near it, is at a level whereby he can ascribe a legal ruling to the *madhhab* of ash-Shāfi‘ī and others, on the basis of his aforementioned statement.

¹⁰⁹ P.57–58 in the first edition and p. 64 in the second edition.

Thus it is clear that someone does not have the right, simply because he has learnt of a ḥadīth—even if it is rigorously authenticated—to proceed to claim that it is the position of ash-Shāfi‘ī—or anyone besides him—and that if he acts upon it, he is acting upon a respected juristic position held by a reliable Imām.

It is also clear that a group of great scholars from previous generations acted upon the external meaning of this statement. They were then deemed to have been in error by those who came after them, or their implementation [of the statement] wavered. A reasonable person needs only to consider this! The religion (*dīn*) of Allāh Almighty is above being left as a toy for the transgressors, on the pretext of acting upon the Sunnah, without someone who is qualified [to interpret it]!

Despite this, we do not deny that this statement of the Imāms has a practical implementation¹¹⁰, such as issues for which Imām ash-Shāfi‘ī provided a legal ruling but subjected it to the authenticity of the ḥadīth (i.e. that if the ḥadīth is proven authentic on this particular issue, then take this opinion). Al-Ḥāfiẓ mentions the ḥadīth of ‘Āishah: “My place is where I am detained,” saying: “It is one of the cases in which Imām ash-Shāfi‘ī provided a legal ruling but subjected it to the authenticity of the ḥadīth. I have collected them in a single book, along with what has been said about these ḥadīth.”

Every field has its men, and a person should not overstep his limits.

After this explanation, I say: Is it not right that we take heed of that which befell others—despite their learning and merit¹¹¹—and abide by

¹¹⁰ As quoted previously from Imām Nawawī, *Tahdhib al-Asmā’ wa’l-Lughāt*, p. 59.

¹¹¹ I have added the words “despite their learning and merit” to explain the pronoun in my words “others”. It is clear from what precedes it and what follows and from the general context that I am referring to the aforementioned scholars (*‘ulamā’*) who wanted to put Imām ash-Shāfi‘ī’s statement into practice, and did what they have been criticised for.

However, I saw this ‘pretender’ (*mutamajhid!*) interpret the pronoun as “what befell the Salafīyyūn”. He mentioned this on page 29 of his Introduction to the work *Raf’ al-Astār* by Amīr aṣ-Ṣan‘ānī.

If he makes a mistake in understanding the words of someone such as myself, how will his understanding be of the words of Allāh Most High and his Messenger ﷺ!

His foolishness includes what he said in this Introduction on p. 48, criticising those who follow [i.e. *madhhab*] (*muqallidūn*): “It is incumbent upon those with knowledge (*ahl al-‘ilm*) to try to minimise the difference of opinion in every region and city as much as possible. There is only one way to achieve this, and that is to make the Book of Allāh and the Sunnah the arbitrator in

the teachings of the Imām, whom Allāh Most High has made it easy for us to follow since our early upbringing?

This sentence—in the first edition—caused resentment among some¹¹¹. [This person] understood that this is blind following (*taqlīd*), and “that a person who follows [an Imām] (*muqallid*) is, according to the scholars, the same as a person who is ignorant (*jāhil*). Moreover, a single page does not pass without him contradicting himself because the position necessitates that he contradict himself. He says that those who do not possess all the tools to formulate independent legal opinions (*ijtihād*) are “the like of the majority of scholars today”! He admits that the main body of scholars today are *muqallidūn* (followers).

So is the one who describes ‘the ignorant person’ (*jāhil*) as: “someone who does not possess all the tools of *ijtihād*”, even more ignorant?”

This contradiction exists only in the logic of someone who, when mentioning those in possession of millions of golden lira, says: but so and so does not possess this amount. If he is asked: What does he possess? He answers that he is indebted and unable to guarantee daily provision for himself and his family. And if you contest this foolish evaluation, he will say to you: Is it not true that someone who does not possess millions does not possess his daily provision?

This is the logic of this fool: he describes the follower (*muqallid*) as ignorant and as deemed so by the scholars. Then on the next page he describes him as someone who does not possess all the tools of *ijtihād*!

Truly, if someone comes close to possessing all the tools of *ijtihād*, they still do not possess them all; and if someone does not know a single letter of the legal sciences (*Al-ʿUlūm ash-Sharʿiyyah*), they do not possess them all either! What a difference between these two types of logic!!

He has been blind to the story related by Imām Ibn Taymiyyah in *Al-Musawwadah* and by his pupil Ibn al-Qayyim in *Iʿlām al-Mūwaqqiʿīn*¹¹²,

every disagreement.” This means that he is saying—first—that the originators of the four Schools of Law (*aṣḥāb al-madhāhib al-arbaʿah*) did not make the Book and the Sunnah their arbitrator!

Secondly: This covers the eyes and shuts the ears to the reality lived by people today!

Tell me, by your Lord: How many *madhāhib* do the people now follow, having adhered to four *madhāhib* for hundreds of years? Where is the reason [in this]? The lowliest have begun to practise independent legal reasoning (*ijtihād*), so where is the religion (*dīn*)?

112 Nuʿmān al-Ālūsī, Introduction to *Al-Āyāt Al-Bayyināt*, p. (c).

113 *Al-Musawwadah*, p. 516, and *Iʿlām al-Mūwaqqiʿīn*, vol. 1, p. 45.

from Imām Aḥmad, that a man asked the Imām: “If a man memorises one hundred thousand ḥadīth, is he a jurist (*faqīh*)?” ‘No,’ he replied. ‘Two hundred thousand, then?’ he asked. ‘No,’ he replied. ‘Three hundred thousand, then?’ he asked. ‘No,’ he replied. ‘Four hundred thousand, then?’ he asked. He indicated with his hand that this was the case, moving his hand.” This means: He may be a *faqīh* who can give people legal opinions based on his independent judgement.

Then the two Shaykhs, Ibn Taymiyyah and Ibn al-Qayyim, cited Ibn Shāqilā, an Imām of the Ḥanbalis, as saying: “When I sat in al-Mansūr Mosque to give legal opinions, I mentioned this issue”—the story of the man with Imām Aḥmad—“so a man said to me: ‘You are such a man—you have not memorised this number of ḥadīth that would enable you to give people legal opinions!’ So I said to him: ‘May Allāh forgive you! If I have not memorised this quantity of ḥadīth, then I give people legal opinions according to the teaching of someone who *has* memorised this quantity of ḥadīth and more.’” He means that he gives people legal opinions according to the teaching of Imām Aḥmad, who selected the ḥadīth for his *Musnad* from over 750,000 ḥadīths¹¹⁴.

After these two stories, Ibn Taymiyyah comments: “If the Muftī relates the teaching of his Imām, then he relates with knowledge (*ʿilm*). In reality, he is a conveyor of his Imām’s teaching, and as such he will not deviate from knowledge¹¹⁵.”

In *At-Tamhīd*¹¹⁶, by Ibn ʿAbd al-Barr, [it is stated] that Imām Ibn Shihāb az-Zuhri said to his pupil Yunus ibn Yazīd al-Ayli: “Obey me and make ablution (*wuḍūʾ*) from [consuming] that which fire has touched!” [Al-Ayli] said to him: ‘I will not obey you and overlook [the opinion of] Saʿīd ibn al-Musayyab.’ Az-Zuhri did not reply!”

This is following (*taqlīd*) and adherence to an Imām’s teaching, and the person who practises it does not deviate from knowledge (*ʿilm*), or from acting upon knowledge. If it were a mistake or a delusion, Ibn Shihāb would not have remained silent!

114 This is *taqlīd* (following), whether it is of Imām Aḥmad or another Imām. Why, then, do the deniers deny it?

115 This is affirmation of *taqlīd*, without rejection of those who practise *taqlīd* and are not qualified to conduct research or draw conclusions. In this way, Islamic Jurisprudence (*al-Fiqh al-Islāmī*) is preserved from meddling.

116 Vol. 3, p. 236–237.

Who, then, is the ignorant one?

The real ignorant one is someone who uses the technical legal term: 'layman' (*āmī*) with the obvious common meaning of the word: 'ignorant' (*jāhil*).

We ask Allāh for protection and well-being and:

﴿أَعُوذُ بِاللَّهِ أَنْ أَكُونَ مِنَ الْجَاهِلِينَ﴾

I seek refuge in Allāh from being amongst the ignorant in knowledge, deeds or character. (2:67)

As regards the second area of confusion—which is that the rigorous authenticity of a ḥadīth is sufficient [reason] to act upon it: what those who make this statement wish to establish is that Allāh Most High has commanded us as his slaves to follow his Noble Prophet, upon whom may there be the best of blessings. So if a ḥadīth is authentically narrated from him, then this is sufficient to act upon it, thereby following him ﷺ. It is not permissible for a Muslim to refrain from acting upon a rigorously authenticated ḥadīth which has reached him from the Messenger of Allāh ﷺ, as mentioned previously¹¹⁷ in Imām al-Shāfiʿi's response to al-Ḥumaydī: "Did you see me come out of a church wearing a rope (*zunnār*) [around my waist]?"

Allāh Almighty has not made it incumbent upon any of his servants, whom he has created, to follow anyone—no matter how great his measure of learning—unless he is infallible.

In response, we say: This is a confusion based on two statements.

The first of these is that the rigorous authenticity of a ḥadīth is sufficient [reason] to act upon it.

The second is that we are ordered to follow the Prophet ﷺ, not to follow such and such person.

The response to the first statement is deduced from the response to the first area of confusion: 'If a ḥadīth is rigorously authenticated, then it is my position.' Similarly, we say here: The meaning of [the statement]: 'The rigorous authenticity of a ḥadīth is sufficient [reason] to act upon it,' is that the *suitability* of a ḥadīth is sufficient [reason] to act upon it, and it is suitable to act upon it after its chain of transmission (*sanad*) and text (*matn*) have fulfilled a great many conditions. These include the condi-

¹¹⁷ P. 45.

tions of ḥadīth sciences (*ash-shurūṭ al-ḥadīthiyyah*) and the conditions of juristic principles (*ash-shurūṭ al-uṣūliyyah*). The matter is not confined to examining the men in its chain of transmission in *Taqrīb al-Tahdhīb* [an abridged biographical dictionary by Ibn Ḥajar], as some people think!

Rather, this is one of the great tasks of the Imāms who are thoroughly conversant with ḥadīth and its sciences, with its fundamentals and its branches.

Because of this misunderstanding, the Sunnah—which they intend to support—is invalidated, after which fiqh is invalidated, and people are also misled!

Ibn Abī Khaythamah narrated—as in *Sharḥ ʿIlal at-Tirmidhī*¹¹⁸—as did Abū Nuʾaym in *Al-Hilyah*¹¹⁹, both of them via ʿIsā Ibn Yūnus from al-Aʿmash, from Ibrāhīm an-Nakhaʿī, that he said: "I listen to the ḥadīth, look at what is appropriate to adopt, then adopt this and leave the rest."

Imām al-Ḥafīẓ ibn ʿAbd al-Barr¹²⁰ narrated with his chain of transmission to al-Qāḍī al-Mujtahid Ibn Abī Laylā¹²¹ that he said: "A man does not have a deep understanding of ḥadīth until he adopts some of it and leaves some of it."

Abū Nuʾaym¹²¹ narrated at the beginning of the biography of Imām ʿAbd ar-Raḥmān ibn Mahdī, the Leader of the Believers (*Amīr al-Muʾminīn*) in ḥadīth, that he said: "It is not permissible for a man to be an Imām until he knows what is rigorously authenticated and what is not rigorously authenticated, until he does not take everything as authoritative, and until he is familiar with the different sources of knowledge."

He then also narrated his remark: "We have been guided in knowledge by four people, two in Egypt and two in al-Madīnah: Al-Layth ibn Saʿd and ʿAmr ibn al-Ḥārith in Egypt, and Mālik and al-Māʾjishūn in al-Madīnah. Were it not for these, we would have gone astray."

Ibn Abī Ḥatīm and Ibn ʿAbd al-Barr¹²² narrated from him likewise. Al-ʿAllāmah al-Kawtharī¹²² also commented on [Ibn ʿAbd al-Barr's] *Al-Intiqāʾ*, clarifying why he would have gone astray, had Allāh Most High

¹¹⁸ Vol. 1, p. 413.

¹¹⁹ Vol. 4, p. 225.

¹²⁰ *Jāmiʾ Bayān al-ʿIlm*, Vol. 2, p. 130.

¹²¹ *Al-Hilyah*, Vol. 9, p. 3.

¹²² In *Muqaddimat al-Jarḥ wa't-Taʿdīl*, pp. 22–23 and *Al-Intiqāʾ*, pp. 27–28.

not delivered him [from this]. He said: "Regarding Ibn 'Asākir's words, with his chain of transmission to Ibn Wahab: Were it not for Mālik ibn Anas and Al-Layth ibn Sa'd I would have been destroyed—I thought that everything which came from the Prophet ﷺ was to be acted upon." And in [another] narration: "I would have gone astray." He means due to differences in ḥadīth. Al-Kawtharī says: "[This] occurs with many narrators who are far-removed from *fiqh* and who do not distinguish what is to be acted upon from what is otherwise."¹²³

The wording of al-Qāḍī 'Iyāḍ's narration ¹²⁴ is: "Ibn Wahab said, 'Had Allāh not delivered me by means of Mālik and al-Layth, I would have gone astray.' He was asked: 'How was that?' He said, 'I dealt with a large number of ḥadīths and it confused me'¹²⁵, so I would show Mālik and al-Layth, who would tell me, 'Take this and leave this.'"

Concerning this, Imām Sufyān ath-Thawrī¹²⁶, warning of and fearing this confusion, said: "Interpreting a ḥadīth is better than listening to it." (i.e. It is better to interpret and understand fewer ḥadīths than to listen without understanding.)¹²⁷ Abū 'Alī an-Naysābūrī said: "Understanding (*fahm*) is more important in our opinion than memorization (*hifz*)."¹²⁸

In *Al-Faqīh wa'l-Mutaḥḥiq*¹²⁹ it is stated that a man asked Ibn 'Uqdah about a ḥadīth, and he said to him: "Deal less frequently with these ḥadīths, as they are only appropriate for someone who knows how to interpret them (*ta'wīl*)."¹³⁰ In this regard, Yaḥyā ibn Sulaymān narrated from Ibn Wahab, saying: "I heard Mālik say, 'Many of these ḥadīths are misleading. I have put many ḥadīths into circulation for which I wish I had received two lashes for each and that I had not narrated them.'"¹³⁰

Here, Faḍīlat al-'Allāmah Shaykh Isma'īl al-Anṣārī, may Allāh Most

¹²³ See what he says in his comment on *Shurūḥ al-A'immat al-Khamsah*, by al-Ḥāzimi, p. 36.

¹²⁴ In *Tarīḥ al-Madārik*, Vol. 2, p. 427.

¹²⁵ At-Tāj as-Subkī, in his *Ṭabaqāt*, Vol. 2, p. 128, quoted Imām Aḥmad ibn Ṣālih al-Miṣrī as saying: "Ibn Wahab compiled 120,000 ḥadīths!"

¹²⁶ The narrator from Sufyān is Abū Usamah Ḥammād ibn Usamah al-Kūfī, a reliable authority. There was a missing link (*saqt*) in *Al-Jāmi'* by al-Khaṭīb, Vol. 2, p. 111, which is [thus] rectified.

¹²⁷ *Jāmi' Bayān al-Ilm*, Vol. 2, p. 175.

¹²⁸ *Tadhkirat al-Ḥuffāz*, p. 776.

¹²⁹ Al-Khaṭīb al-Baghdādī, Vol. 2, p. 85.

¹³⁰ Al-Ḥākim also related this from Mālik in *Mārifat 'Ulūm al-Ḥadīth*, p. 61, commenting on it: "Such was Mālik ibn Anas' prudence in regard to ḥadīth, despite his reserve and reticence"—i.e. the fact that he narrated relatively few ḥadīths. "Then what about others, who talk about all

The First Reason

High preserve him, commented: "This refers only to someone who applies them [i.e. ḥadīths] inappropriately." Otherwise, guidance is found in the Sunnah of the Prophet ﷺ. Allāh Most High said:

﴿وَاتَّبِعُوهُ لَعَلَّكُمْ تَهْتَدُونَ﴾

And follow him, so that you may be guided (7:158).

However, whoever puts something in the wrong place, i.e. applies something inappropriately, goes astray. For this reason, Allāh Most High calls the Sunnah of the Prophet ﷺ in many noble Qur'ānic verses (*āyāt*), 'the Wisdom' (*al-Ḥikmah*), and 'wisdom' means putting something in the correct place.

In *Al-Jāmi' li 'Akhlaq ar-Rāwī wa 'Ādāb as-Sāmi'*¹³¹ ash-Shāfi'ī said, "It was said to Mālik ibn Anas: 'Ibn 'Uyaynah has things [i.e. ḥadīths] from az-Zuhri which you do not have!' To which Mālik said: 'Am I to narrate every ḥadīth that I have heard? If that were the case, it would be my intention to lead them astray.'"¹³²

For this reason, Ibn Wahab made this statement: "Ḥadīths are mis-

manner of flotsam and jetsam (*at-timm wa'r-rimm*)?" That is, someone who narrates 'whatever blows and flows': *At-timm* is what the water carries on its surface, and *ar-rimm* is what the wind carries.

¹³¹ By al-Khaṭīb al-Baghdādī, Vol. 2, p. 109.

¹³² Al-Ḥāfiẓ said in *Fath al-Bārī*, Vol. 1, p. 236, at the beginning of what he says on the subject of someone who restricts knowledge to one group of people to the exclusion of another group: "Among those who disliked to relate ḥadīth about certain topics are: Aḥmad, with respect to ḥadīths whose apparent meaning is to revolt against the ruler; Mālik, with respect to ḥadīths about the Attributes (*Ṣifāt*) [of Allāh]; and Abū Yūsuf, with respect to ḥadīths with only one narrator (*gharā'ib*). Before them, Abū Hurayrah, as has been mentioned about him concerning the [ḥadīth of wiping over] two socks, meaning [he disliked narrating] that about which there is discord (*fitan*); similarly, Ḥudhayfah; and al-Ḥasan, who disapproved of Anas' narrating to al-Ḥajjāj the story of the 'Urayniyyūn, because [al-Ḥajjāj] regarded it as an expedient for the excessive bloodshed which he sanctioned, according to his baseless interpretation of it. The principle in this regard is that if the external meaning of the ḥadīth encourages an innovation (*bid'ah*), and its external meaning is not at all what is intended, so withholding it from someone whom it is feared will adopt its external meaning is necessary. And Allāh knows best."

Author: An example of this is that Ibn 'Uyaynah narrated 'Umar's ḥadīth as a Prophetic Tradition (*marfū'ah*): "Perform Ḥajj and 'Umrah consecutively, for performing them consecutively increases life span and banishes poverty and sins, as the bellows remove the scum from iron." [Ibn 'Uyaynah] said: "Sometimes we passed over the phrase, 'increases life span' (*yazīdāni fi 'l-ajal*) and didn't narrate it, fearing that they—meaning the Qadarīyyah—would use it as an argument, whereas it is not proof of [what they assert]." As in *Musnad al-Ḥumaydi*, Vol. 1, pp. 10–11 (17).

leading except for the scholars (*‘ulamā*).” He means: except for the jurists (*fuqahā*), as in the aforementioned wording of Ibn ‘Uyaynah¹³³.

Devoting oneself to attaining a deep understanding of the Sunnah takes place at the hands of the Imāms of fiqh, at whose table there is salvation from error and delusion. This is testified by these two Imāms, Ibn ‘Uyaynah and Ibn Wahab, and affirmed by other Imāms who have conveyed their words. The following is a list of their names from the aforementioned texts¹³⁴: Ibn ‘Uyaynah’s words were transmitted by Ibn Abī Zayd al-Qayrawānī, Khalīl al-Jundī and Ibn Hajar al-Haytamī; while Ibn Wahab’s words were transmitted by Ibn Abī Ḥātim, Ibn Ḥibbān, Ibn Abī Zayd, al-Bayhaqī, Ibn ‘Abd al-Barr, ‘Iyāḍ, Ibn al-‘Asākir and Ibn Rajab. Ibn ‘Abd al-Barr’s wording in *At-Tamhīd*¹³⁵ is from Abū Ja‘far al-Ayḷī’s transmission: “I heard Ibn Wahab innumerable times [saying]: ‘If it were not for. . .’”. For this reason the wording of Ibn Wahab’s statement takes a number of forms in the sources that I have mentioned.

How dangerous is the heedlessness of those who are unaware of this reality!

Imām at-Tirmidhī رحمہ اللہ narrated in his *Sunan*¹³⁶ the ḥadīth of Umm ‘Atīyyah describing the ritual washing of Zaynab, daughter of the Prophet ﷺ, when she passed away. He commented on it at length, ending with the words: “Thus said the jurists (*fuqahā*), who are more knowledgeable about the meanings of ḥadīth.”

Al-Ḥāfiẓ al-Khaṭīb said in *Al-Faqīh wa ‘l-Mutafaqqih*¹³⁷: “It should be known that a man does not become a scholar of fiqh by constantly writing and narrating ḥadīth, but only by extracting their meanings and devoting himself to reflection on them.” He then ascribed to Imām Mālik رحمہ اللہ that he advised his two nephews, Abū Bakr and Ismā‘īl, the sons of Abū Uways, saying to them: “I see that you like this business—collecting and listening to ḥadīth—and that you seek it!” “Yes,” they replied. He said: “If you want to benefit from it and for Allāh to benefit others by you, then do less of it and devote yourselves to understanding.”

¹³³ P. 78.

¹³⁴ Ibid.

¹³⁵ Vol. 1, p. 26.

¹³⁶ Vol. 3, p. 372, (990).

¹³⁷ *Al-Faqīh wa ‘l-Mutafaqqih*, Vol. 2, pp. 81–82, and the story of Mālik therein and in *Al-Muḥaddith al-Fāṣil*, pp. 242, 559.

Al-Khaṭīb also narrated¹³⁸ the following with his chain of transmission to Abū Nu‘aym al-Faḍl ibn Dukayn—one of the famous Shaykhs of Imām Bukhārī. Abū Nu‘aym said: “I was passing by Zufar (Ibn al-Hudhayl, one of the great companions of Imām Abū Ḥanīfah) who was sitting with his legs drawn up and wrapped in his garment, when he said, ‘Come here, squint-eyed, so I can sift through your ḥadīth for you.’ So I presented to him what I had heard. He said, ‘This should be adopted, and this should not be adopted; this is abrogating (*nāsikh*) and this is abrogated (*mansūkh*).’”

For this reason Imām Mālik would select those from whom he took ḥadīth. In addition to his selection according to whether the man was reliable and acceptable as a narrator, he would select him as a person of knowledge who understood what he narrated.

Al-Qāḍī ‘Iyāḍ رحمہ اللہ said in *Tartīb al-Madārik*¹³⁹: “Ibn Wahab said: ‘Mālik looked at al-‘Aṭṭāf ibn Khālid (who is an acceptable narrator) and he (Mālik) said, ‘It has come to my knowledge that you learn [ḥadīth] from this [man]!’ I replied, ‘Indeed.’ He said, ‘We did not learn ḥadīth from anyone other than the jurists (*fuqahā*).’”

His example in this was his teacher, Imām Rabī‘at ar-Ra‘ī رحمہ اللہ. Al-Khaṭīb, in *Al-Kifāyah*¹⁴⁰, attributes to Mālik that Rabī‘ah said to Ibn Shihāb az-Zuhri: “You narrate from the Prophet ﷺ, so be mindful with your ḥadīth.”

His other teacher was the Leader of the Faithful (*Amīr al-Mu‘minīn*) in ḥadīth, Abū az-Zinād ‘Abd Allāh ibn Dhakwān, to whom Ibn ‘Abd al-Barr¹⁴¹ attributed that he said: “By Allāh, we would receive the *Sunan* from people of understanding and reliability, and learn them in a manner similar to that in which we learn verses (*āyāt*) of the Qur’ān.”

These two were preceded in this, i.e. learning ḥadīths from those who understood them, by the Imām of the people of Kufa, and leader of its scholars of fiqh, Ibrāhīm an-Nakha‘ī رحمہ اللہ. Al-Khaṭīb also narrated from him that al-Mughīrah aḍ-Ḍabī was late for Ibrāhīm’s gathering, so Ibrāhīm said to him, “Mughīrah, what delayed you?” He replied, “A Shaykh arrived; that is, a [ḥadīth] narrator; and we wrote down ḥadīth

¹³⁸ Vol. 1, p. 83.

¹³⁹ Vol. 1, pp. 124–125.

¹⁴⁰ P. 169.

¹⁴¹ In *Jāmi‘ Bayān al-‘Ilm*, Vol. 2, p. 98.

from him." Ibrāhīm said, "I thought we only learnt ḥadīth from someone who can differentiate between what is lawful (*ḥalāl*) therein and what is unlawful (*ḥarām*) therein, and between what is *ḥarām* therein and what is *ḥalāl* therein. You will find a shaykh narrating ḥadīth, misconstruing what is *ḥalāl* therein for what is *ḥarām* therein and what is *ḥarām* therein for what is *ḥalāl* therein without noticing."

Al-Khaṭīb, in *Al-Faqīh wa 'l-Mutaḥḥiq*¹⁴², relates a lengthy passage from Imām al-Muzanī, heir in learning to Imām ash-Shāfi'ī, may Allāh be pleased with them both. At the end of it, al-Muzanī says, "May Allāh have mercy on you. Consider the ḥadīth which you have collected, and seek knowledge from those with knowledge of fiqh, that you might attain understanding."

Imām al-Qaṣṭallānī —commentator on al-Bukhārī— said in his book, *Laṭā'if al-Ishārāt*¹⁴³: "May Allāh have mercy on Imām Dār Al-Hijrah Mālik ibn Anas, about whom it has been narrated (according to al-Hudhālī) that he asked Nāfi' (the Imām and Reciter) about the [recitation of] *bismillah* [in prayer]. He replied, 'It is Sunnah to voice it.' He (Mālik) acknowledged him, saying, 'Ask about each [field of] knowledge those who are masters of it.'"¹⁴⁴

This is some of what pertains to the necessity of consulting the jurist Imāms (*fuqahā'*), and taking into consideration the Sunnah, i.e. the practice of the pious predecessors, contrary to what is claimed by some, that the rigorous authenticity (*ṣiḥḥah*) of the ḥadīth alone is sufficient to make it obligatory to act upon.

There is another issue related to this claim, which it is necessary to explain in order to reveal the invalidity and falseness of the claim.

The practice of our predecessors (*Salaf*) —, i.e. the Companions

¹⁴² Vol. 2, pp. 15–19.

¹⁴³ Vol. 1, pp. 80, 94.

¹⁴⁴ My intention in this report is [to highlight] Imām Mālik's warning about the necessity of consulting experts, each according to their area of expertise, and of preventing those who are not capable of dealing with what they have not mastered from presuming to adopt the rank of the Imāms, whilst claiming that they do not deviate from their teachings! My intention in this report is not to deliver a legal opinion (*fatwā*) in favour of voicing the *bismillah*. This is a thorny issue, about which there is a vast difference of opinion among the independent jurist (*mujtahid*) Imāms, the scope of which has been greatly increased by their followers, who compiled specialised books on [the subject]. For a list of many of these, see *Ma'ārif as-Sunan*, Vol. 2, p. 361, by al-'Allāmah al-Bannūrī.

(*Ṣaḥābah*) and those after them, proves that it did not suffice for them to have a ḥadīth narrated to them in order for them to adopt and apply it. Rather, they took into consideration whether it should be acted upon or not acted upon. On this point we have recently mentioned the statement of al-'Allāmah al-Kawtharī: "[This] happens to many ḥadīth narrators who are not familiar with fiqh and who do not distinguish what is appropriate to act upon from what is otherwise."

The following is a lengthy observation which I quote in full from *Kitāb al-Jāmi'* by Imām Ibn Abī Zayd al-Qayrawānī al-Mālikī, who died in 386/996. Then I will quote something similar from *Tartīb al-Madārik* by al-Qāḍī 'Iyād, both of which contain an explanation of the attitude of the *Salaf* with regard to aspects of the Sunnah which some of them acted upon previously, and which they therefore continue to act upon; and aspects of the Sunnah which no one acted upon previously, and which they therefore abandon, even if they were narrated to them from reliable narrators:

"Ibn Abī Zayd¹⁴⁵, listing the beliefs and the way of those who follow the Sunnah and the Truth, said: 'Submission is to the *Sunan*, which cannot be opposed by opinion (*ra'i*), or analogy (*qiyās*). Whatever the Righteous Predecessors (*as-Salaf aṣ-Ṣāliḥ*) interpreted from [the Sunnah], we [also] interpret; whatever they acted upon from it, we [also] act upon; and whatever they discarded, we discard. It is sufficient for us to abstain from that which they abstained from, to follow them in what they made clear, and to be guided by what they derived [from the Sunnah] and saw in events, and not to deviate from their group [i.e. their broad consensus] in matters about which they differ or in their interpretation.

Everything we have previously mentioned is the opinion of those who follow the Sunnah and of the leaders in fiqh and ḥadīth, as we have demonstrated. It is all the opinion of Mālik, some of which is his specific opinion, and some of which is known to be his position. . ."

[Ibn Abī Zayd then cited the following opinions and examples which support the point that it is not sufficient to make judgments based on the literal understanding of the ḥadīth; rather, one needs to see if the Companions and the people of Madina acted upon it or not.]

¹⁴⁵ *Kitāb al-Jāmi'*, p. 117.

"Mālik said: 'Practice [of the *Salaf*] is sounder than ḥadīth [i.e. practice determines the correct interpretation of the ḥadīth]. Those whom I follow have said that it is difficult to say in such a case, 'so-and-so narrated from so-and-so'. Furthermore, when some of the Followers (*Tābi'ūn*) were informed of ḥadīths from others, they would say: 'We do not ignore this, but it is contrary to practice.'"

"The brother of Muḥammad ibn Abī Bakr ibn Ḥazm sometimes said to him: 'Why do you not judge in accordance to this ḥadīth?' He would reply: 'I have not found it to be the practice of the people.'"

"An-Nakha'i said: 'If I saw the Companions (*Ṣaḥābah*) performing ablution (*wuḍū'*) [and washing] up to the wristbones—i.e. wrists—I perform *wuḍū'* in the same manner, even though I recite 'up to the elbows'.¹⁴⁶ This is because they cannot be accused of diverging from the *Sunan*. They are endowed with learning and are the most zealous of Allāh's creation in following the Messenger of Allāh ﷺ, such that no one would suspect this of them, except someone in whose faith there is doubt."

"Abd ar-Raḥmān ibn Mahdī said: 'The early sunnah [i.e. practice] of the people of al-Madīnah is better than ḥadīth.' Ibn 'Uyaynah said: 'Ḥadīths are misleading, except for the jurists (*fuqahā'*).'" He means that others might interpret something in the sense of its external meaning, while [in fact] it has an interpretation from another ḥadīth, or there is a proof unknown to him [i.e. the non-jurist], or it is necessary to abandon the ḥadīth due to an issue which only someone who has studied extensively and understood profoundly would grasp.

"Ibn Wahab said: 'Every ḥadīth narrator who does not follow an Imām of fiqh is lost. Had Allāh not delivered us by way of Mālik and al-Layth, we would have been lost.'"

"Then Ibn Abī Zayd said¹⁴⁷: Mālik said: 'There wasn't a single Imām in al-Madīnah who narrated two differing ḥadīths.' Ashhab said: 'This means that no ḥadīths were narrated there about anything that was not practised.'"

[This is the end of Ibn Abī Zayd's observations.]

¹⁴⁶ In *Al-Hujjah fi Bayān al-Maḥajjah* by Abū 'l-Qāsim at-Taymī al-Aṣbahānī, Vol. 2, p. 401: "Ibrāhīm an-Nakha'i said: 'If they washed nothing but the nails, we would not go beyond that. It shows much contempt towards a people that we act at variance with their actions!'"

¹⁴⁷ P. 146.

Al-Qāḍī 'Iyāḍ ʔ said¹⁴⁸: "On the subject of what has been reported from the *Salaf* and the scholars (*'ulamā'*) on the necessity of referring to the actions of the people of al-Madīnah, and their considering these [actions] authoritative, even if they are at variance with the majority. It is narrated that 'Umar ibn al-Khaṭṭāb ʔ said on the pulpit, 'Allāh forbid that a man would narrate a ḥadīth which is at variance with what is acted upon.' Ibn al-Qāsim and Ibn Wahab said, 'I saw that for Mālik, practice was more powerful [i.e. more authoritative] than ḥadīth.' Mālik said, 'Men of learning from among the Followers (*Tābi'ūn*) would narrate ḥadīth and they would [also] be informed of [opposing] ḥadīth from others. They would say, 'We do not ignore this, but it is contrary to practice.'"

[Al-Qāḍī 'Iyāḍ also proceeds to cite opinions and examples demonstrating that the true meaning of a ḥadīth is demonstrated by the customary practice of the *Salaf*.]:

"Mālik said: 'I saw Muḥammad ibn Abī Bakr ibn 'Amr ibn Ḥazm, who was a judge (*qāḍī*), and whose brother 'Abd Allāh was a truthful man of many ḥadīth. Whenever Muḥammad passed judgement on a case about which a ḥadīth had been narrated that was at variance with the judgement passed, I would hear 'Abd Allāh reprove him, saying, 'Hasn't such-and-such ḥadīth been narrated about this?' He would reply, 'Indeed.' Then his brother would say, 'So why do you not pass judgement according to it?' He would reply, 'Where are the people with regard to it?!'¹⁴⁹ This means

¹⁴⁸ In *Tartīb al-Madārik*, Vol. 1, p. 66.

¹⁴⁹ Look at this answer [i.e. of Ibn Ḥazm] and consider it. Then seek refuge in Allāh from the destructiveness of the careless.

As for al-Ḥāfiẓ ibn 'Abd al-Barr's reproach [of the uncritical followers (*muqallidūn*)] in *Jāmi' Bayān al-'Ilm* (Vol. 2, p. 171), and his quotation of verses [of poetry] by al-Mundhir ibn Sa'id al-Ballūṭī, which the heretics extol: this [answer] came from both of them [i.e. Ibn 'Abd al-Barr and Ibn Sa'id al-Ballūṭī]—and from others—as spoken by the scholars (*'ulamā'*), who have the insight and mastery over the tools for formulating independent legal opinions (*ijtihād*), and with whom the *muqallidūn* are in conflict, which is self-evident. That this is what was meant by al-Mundhir ibn Sa'id has been indicated by the revered and insightful master of the principles of jurisprudence, al-'Allamah Shaykh Muḥammad al-Khaḍir Ḥussayn ʔ, in his lecture on *Madārik ash-Sharī'ah al-Islāmiyyah*, p. 24 in the Tunisian edition.

It is unimaginable of someone like al-Ḥāfiẓ ibn 'Abd al-Barr, Imām of North West Africa (al-Maghrib) and author of *At-Tamhīd* and *Al-Istidhkār*, that he would open the door of *ijtihād* for those with compound ignorance, or even the door of preference for one Imām of *ijtihād* over another!!

These imposters, on the other hand, are incapable of reading a single line from the books of knowledge. Furthermore, what they say is not from themselves and the result of their seeking

what the scholars of al-Madīnah agreed upon; by which is intended that acting upon it [i.e. the consensus of the scholars of al-Madīnah] is more powerful [i.e. authoritative] than ḥadīth.”

“Ibn al-Mu‘adhdhal said: ‘I heard a person ask Ibn al-Mājishūn: ‘Why did you narrate the ḥadīth then abandon it?’ He said: ‘To let it be known that we abandoned it on an informed basis.’”¹⁵⁰

“Ibn Mahdī said: ‘The Sunnah arising from the customary practice of the people of al-Madīnah is better than ḥadīth.’ [i.e. It is more authorita-

[knowledge] earnestly from the Shaykhs, but rather they get it from those who open wide for them the door of *ijtihād*, and then obligate them to imitate them!!

Ibn ‘Abd al-Barr ʿ only reproached those who oppose the Sunnah with their own subjective opinion and reject it, not those who follow an Imām whose teachings they firmly believe are based on the Sunnah or evidence which [this Imām] viewed as reliable. Refer to [Ibn ‘Abd al-Barr’s] clear, unequivocal final words on this issue, one page after the verses of al-Qāḍī Mundhir ibn Saīd, in which he rebukes and upbraids the two parties: the party of those who are immersed in subjective opinion (*ra’i*) and opposed to considering the Sunnah, and the party of the presumptuous, who feign erudition yet are ignorant: “Those who excuse themselves from consideration [of the Sunnah], and eschew what we have mentioned, who oppose the *sunan* with their own subjective opinion, wishing to put [the Sunnah] on a par with his [own] speculation: such a person is both misguided and misguides others. And the person who ignores all of that, too”—meaning the tools of *ijtihād*—“and rushes into giving a fatwā without sufficient learning: he is blinder still and even more misguided.”

He then said (Vol. 2, p. 114), having expounded his censure of *taqlīd*: “This all applies to someone who is not a lay person, for lay people must inevitably follow their scholars whenever they find themselves in a predicament, since they do not perceive where the evidence lies, and will not attain knowledge of it without understanding. This is because knowledge comprises of levels, the highest of which cannot be reached without [first] attaining the lowest. This is the demarcation”—i.e. the dividing line—“between the lay person and someone who seeks proofs. And Allāh knows best.

The scholars do not disagree that lay people are obligated to follow their scholars, and that they are the intended subjects of the words of Allāh Most High:

﴿فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ﴾

Ask the people of the Dhikr [i.e. the scholars], if you yourselves do not know (16:43).

It is agreed that a blind person must follow someone whose testimony he trusts, if he is unsure of the qiblah. In the same way, someone who has no knowledge, and no understanding of what is required of him, has no alternative but to follow his scholar [i.e. someone whose knowledge he trusts]. Similarly, there is no disagreement amongst the scholars regarding the fact that the general public are not permitted to give formal legal opinions. This is due—and Allāh knows best—to their ignorance of the concepts in which it is permitted to deem something as lawful or unlawful, or to hold an opinion in knowledge.”

¹⁵⁰ Ar-Rāmāhurmuzī ʿ, in *Al-Muḥaddith al-Fāṣil*, p. 322, said: “A mufti is not required to give legal opinions based on everything that he has narrated, neither is he required to abandon [narrating] a narration upon which he has not based a legal opinion. This is the position of the *fuqahā*’ everywhere. . .”

tive.] He also said: ‘For each topic I have many ḥadīths, so when I find the people of the quarter’—i.e. the local community—‘acting contrary to a ḥadīth, I consider it weak’—or he said something similar.”

“Rabī‘ah said: ‘A thousand from a thousand [i.e. the customary practice of thousands] is preferable to me than one from one [i.e. a ḥadīth narrated by single narrators], because one from one plucks the Sunnah from your hands.”

“Ibn Abī Hāzim said: ‘Abū ad-Dardā’ [the Companion] used to be asked, and he would reply. Then it would be said to him: ‘It reached us as such and such [ḥadīth]’—contrary to what he said—so he would say: ‘I heard it [too], but I perceived practice to be otherwise.”

“Ibn Abī az-Zinād said: “Umar ibn ‘Abd al-‘Azīz used to gather the jurists (*fuqahā*) and ask them about the *Sunan* and legal judgements which were practised, in order to establish them. Whatever the people did not practise, he abolished, even if the narrator of the ḥadīth was trustworthy (*thiqah*).”

This is what the ḥadīth scholar (*muḥaddith*) and jurist (*faqīh*) Imām, al-Qāḍī ‘Iyāḍ al-Mālikī ʿ said. See also what al-Ḥāfiẓ al-Khaṭīb al-Bagh-dādī ash-Shāfi‘ī ʿ said in his book: *Al-Faqīh wa’l-Mutafaqqih*¹⁵¹. Indeed, he titled one of the main sections: ‘What has been said about rejecting single-narrator ḥadīths (*ḥabār wāḥid*)’, and opened it with a chain of transmission (*isnād*) to Muḥammad ibn ‘Isā aṭ-Ṭabbā‘, one of the great ḥadīth memorisers (*ḥuffāẓ*) and a master of fiqh, who said: “Every ḥadīth that comes to you from the Prophet ʿ about which it did not reach you that one of his Companions practised it, abandon it.”

In his biography of Abū al-Qāsim ‘Abd al-‘Azīz ibn ‘Abd Allāh ad-Dārakī, one of the Shāfi‘ī Imams, who died in the year 375/985, Ibn Khallikan said: “If a legal problem came to him, he would ponder it at length, before delivering an opinion on it. He might deliver an opinion contrary to the position of Imām ash-Shāfi‘ī and Imām Abū Ḥanīfah, may Allāh be pleased with them both. He was asked about this, to which he said: “The governing factor is: ‘So-and-so narrated such-and-such from so-and-so, from the Messenger of Allāh ʿ’. It is better to adhere to the ḥadīth than to adhere to the teaching of the two Imāms.”

¹⁵¹ Vol. 1, p. 132.

When adh-Dhahabī quoted this account in *As-Siyar*¹⁵², he commented: "In my opinion, this is good, but only on the condition that the ḥadīth in question is advocated by an Imām who is the equal of these two Imāms, such as Mālik, or Sufyān, or al-Awzā'ī; and that the ḥadīth is established and free from any deficiency; and that the source upon which Abū Ḥanīfah and ash-Shāfi'ī base their authority is not a rigorously authenticated ḥadīth which contradicts the other. As for someone who adheres to a *ṣaḥīḥ* ḥadīth which other independent jurist (*mujtahid*) Imāms have avoided, this is not [appropriate]."

Abū Zur'ah ad-Dimashqī, in his *Tārīkh*, and ar-Rāmahurmuzī, in *Al-Muḥaddith al-Fāsil*¹⁵³, both narrated from Imām al-Awzā'ī ʿ that he said: "We would listen to ḥadīth, and then present it to our companions, like a forged dirham. Those of which they approved, we would accept, while those which they rejected, we would abandon."

Imām Taqī ad-Dīn ibn Taymiyah ʿ, in *Al-Musawwadah*¹⁵⁴, said: "What he narrated"—i.e. Imām Aḥmad—"in terms of Sunnah or ḥadīth, which he classified as rigorously authenticated (*ṣaḥīḥ*) or sound (*ḥasan*); or which he was content with its chain of transmission (*isnād*); or recorded it in his books without refuting it or giving an opinion contrary to it: this is his position—although it has been said otherwise."

The evidence from this text is his words: "without refuting it or giving an opinion contrary to it", for it is true that Imām Aḥmad—and likewise the other Imāms—sometimes abandoned a *ṣaḥīḥ* ḥadīth for another ḥadīth, based on any factors which they consider as justifying this, and on [the principle] that the rigorous authenticity of the ḥadīth alone is not enough to make adhering to it obligatory.

The adornment of a scholar is to observe both matters: ḥadīth and fiqh, without one dominating the other in his method.

Qāḍī 'Iyāḍ ʿ¹⁵⁵ said in the biography of the wise Imām,¹⁵⁶ Yahyā ibn

¹⁵² Vol. 16, p. 404.

¹⁵³ *Tārīkh Abī Zafah*, Vol. 1, p. 265; and ar-Rāmahurmuzī, p. 318.

¹⁵⁴ P. 530.

¹⁵⁵ *Tartīb al-Madārik*, Vol. 2, p. 541.

¹⁵⁶ Also in *Tartīb al-Madārik*, Vol. 2, p. 537: "Mālik was impressed by Yahyā's manner and intellect. It is narrated from him that one day he was with Mālik, sitting with all his companions, when someone said: 'The elephant has come!' All of Mālik's companions went out to look at it. Mālik said to [Yahyā]: 'Why don't you go out to look at it, since there are none in al-Andalus?' Yahyā

Yahyā al-Laythī, narrator of *Al-Muwatṭa* from Imām Mālik, may Allāh have mercy on them both: "Yahyā said: 'I used to go to 'Abd ar-Raḥmān ibn al-Qāsim, who would say to me: 'Where [are these narrations from], Abū Muḥammad?' I would tell him: 'From 'Abd Allāh ibn Wahab.' He would say: 'Fear Allāh! Most of those ḥadīths are not practised.' By this he meant the practice of the people of al-Madinah. I would then go to 'Abd Allāh ibn Wahab, who would say to me: 'Where [are these rulings] from?' I would tell him: 'From Ibn al-Qāsim.' He would say: 'Fear Allāh! Most of these rulings are subjective opinion (*ra'i*).'¹⁵⁷

Then Yahyā resumed—saying to himself: 'May Allāh have mercy on them both, they have both spoken correctly. Ibn al-Qāsim forbade me from following ḥadīths which are not practised, and in this he is correct; while Ibn Wahab forbade me from over reliance on subjective opinion, and commanded me to follow [ḥadīth], and in this he is correct.' Then Yahyā said: 'Following Ibn al-Qāsim in his subjective opinion is reason (*rushd*), and following Ibn Wahab in his ḥadīth is guidance (*hudan*).'

Abū Nu'aym¹⁵⁸ narrated with his chain of transmission to Imām Ibrāhīm an-Nakhā'ī ʿ: "No subjective opinion (*ra'i*) is correct without a narration, and no narration without subjective opinion."

Similarly, what the independent jurist (*mujtahid*) Imām Muḥammad ibn al-Ḥasan ash-Shaybānī said: "It is not correct to act upon ḥadīth without subjective opinion, nor is it correct to act upon subjective opinion without ḥadīth."

Qāḍī ar-Rāmahurmuzī, who died in the year 360/970, ʿ said in the introduction to *Al-Muḥaddith al-Fāsil*, advising a contemporary scholar of Baghdad (Baghdād) who had displayed arrogance towards the people of ḥadīth (*ahl al-ḥadīth*) [i.e. those who rely on ḥadīth as their basis for belief and practice, as opposed to *ra'i*]: "Will he not educate himself in the etiquette of knowledge and lower his wing towards those who have some connection with it [i.e. knowledge] . . . show due appreciation to the jurists (*fuqahā*); acknowledge the [ḥadīth] narrators' part in transmission;

replied: 'I came from my homeland to look at you and to learn from your guidance and knowledge, not to look at the elephant! Mālik was impressed by this and called him: the Wise (*al-ʿAqil*).'

¹⁵⁷ Ibn 'Abd al-Barr narrated up to this point with his chain of transmission in *Jāmi' Bayān al-ʿIlm*, Vol. 3, p. 159.

¹⁵⁸ *Al-Hilyah*, Vol. 4, p. 325.

encourage the narrators to increase in understanding [by application of fiqh], and those who have acquired deep understanding [to increase in] ḥadīth. [He should] express appreciation for both parties and encourage the use of both approaches, for in conjunction they complete one another but are incomplete when separated." That is all, and perfection belongs to Allāh alone.

Imām Abū Sulaymān al-Khaṭṭābī, who died in the year 388/998, said in the introduction to his commentary on *Sunan Abī Dawūd*, *Māʾālim as-Sunan*¹⁵⁹: "I have seen that the people of knowledge (*ahl al-ʿilm*) in our era have become two parties, divided into two factions: followers of ḥadīth and traditions [on the one hand], and adherents of fiqh and speculative thinking [on the other]. Neither of these is distinguished from its sister in that it is more necessary, nor is either capable of fulfilling its aim and purpose without the other, because ḥadīth occupies the position of the foundation, which is the root, while fiqh occupies the position of the structure, which is its branch. Any structure which is not erected on a base or a foundation will collapse, and any foundation without a structure or a building will be abandoned and go to ruin."

Al-Ḥāfiẓ as-Sakhāwī¹⁶⁰ said: "In order to gain a comprehensive understanding of what preceded [it is necessary to]: engage with the fiqh of ḥadīth and explore the rules and etiquette inferred from it. . . This has been specifically appointed. . . These are attributes of the eminent jurists (*fuqahāʾ*) and independent jurist (*mujtahid*) Imāms, such as ash-Shāfiʿī, Mālik and Aḥmad, the two Ḥammāds and the two Sufyāns, Ibn al-Mubārak and Ibn Rāhwayh, al-Awzāʿī, and some [others] from the early generations and some from the later generations. Many works have also been composed about this. . ."

Ibn ʿAsākir narrated in his *Tārīkh* in the biography of Abū Zurʿah ar-Rāzī, that he said: "One night, after I had been contemplating narrators, I was shown in a dream what seemed to be a man calling: 'Abū Zurʿah, it is better to understand the text (*matn*) of the ḥadīth than to contemplate

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¹⁶⁰ *Fatḥ al-Mughīth*, Vol. 3, pp. 50–51, at the end of what he says about *gharīb* ḥadīths [i.e. conveyed by only one narrator].

the dead.' That is, those narrators in a ḥadīth's chain of transmission (*isnād*) who have died."

For this reason, Abū Zurʿah ar-Rāzī himself would say: "Fiqh is incumbent upon you, for it is like the mountain apple: it nourishes whoever partakes of it."¹⁶¹

Imām al-Ḥākim singled out a particular kind of ḥadīth science, speaking in its Introduction of the importance of thoroughly understanding (*tafaqquh*) the ḥadīth. He then mentioned some of the Imāms of the jurist ḥadīth scholars (*fuqahāʾ al-muḥaddithūn*). He said:¹⁶² "The twentieth kind of [ḥadīth] science is knowledge of the fiqh of ḥadīth, which is the fruit of the [ḥadīth] sciences and in which lies the strength of the Sharīʿah. As for the *fuqahāʾ* of Islām who are the people of analogy (*qiyās*), subjective opinion (*raʾī*), deduction (*istinbāt*), argumentation (*jadāl*) and speculation (*naẓar*), they are well known in every age and amongst the people of every country. Here, by the Will of Allāh, we will discuss the fiqh of ḥadīth from the people of ḥadīth (*ahl al-ḥadīth*), in order to show that these experts, who have studied [ḥadīth] thoroughly, are not ignorant of the fiqh of ḥadīth, and that it is therefore one kind of [ḥadīth] science."

Ibn Ḥibbān conducts a lengthy discussion in which he reproaches ḥadīth narrators who are lay people, i.e. non-jurists¹⁶³, while al-Khaṭīb al-Baghdādī includes an even longer discussion at the beginning of his book, *Al-Kifāyah*. Its topic falls under what I related about Imām an-Nakhaʿī and Muḥammad ibn al-Ḥasan and those after them, but whoever considers it in full is more highly accomplished. May Allāh enable us to succeed in pleasing him¹⁶⁴.

Al-Ḥāfiẓ ibn Rajab al-Ḥanbalī¹⁶⁵ said in his delightful and useful work, *Faḍl ʿIlm as-Salaf ʿalā al-Khalaf*¹⁶⁵: "The Imāms and the jurists of the people of ḥadīth only follow a rigorously authenticated ḥadīth if it was

¹⁶¹ As in *Aṣ-Ṣilah* by Ibn Bashkuwāl, Vol. 2 p. 429, (920).

¹⁶² *Mārifat ʿUlūm al-Ḥadīth*, p. 63.

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¹⁶⁵ P. 9.

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¹⁶⁵ P. 9.

practised by the Companions and those after them, or by a group of them; whereas that which is agreed upon as abandoned [by the Companions] is not correct to act upon, because they abandoned it knowing that it was not to be acted upon. 'Umar ibn 'Abd al-'Azīz said: 'Take from subjective opinion (*ra'i*) that which is in agreement with those who came before you, for they were more knowledgeable than you.'

Then [Ibn Rajab al-Ḥanbalī] ¹⁶⁶ said: 'One should be wary of what occurred after them'—meaning after the Imāms: ash-Shāfi'i and Aḥmad and their ilk. 'Many incidents occurred after them, including that some of the Zāhiriyyah [i.e. the school of thought which relies on the literal meaning of Qur'ān and ḥadīth] and their like¹⁶⁷ became associated with following the Sunnah and ḥadīth. In fact, they are at great variance with it [i.e. the Sunnah] on account of their deviation from the Imāms, their individualistic approach to understanding things, and their adoption of what the Imāms have not previously adopted.'

In *I'lām al-Muwaqqi'in*¹⁶⁸ Imām Aḥmad is narrated to have said: 'If a man has the books in which are compiled the sayings of the Messenger of Allāh ﷺ and the differences of the Companions and the Followers, then it is not appropriate for him to act upon whatever he wishes—picking and choosing and acting upon it—until he asks people of knowledge (*ahl al-'ilm*) what is to be practised, so that he may act according to what is correct.'

Note his words: 'until he asks people of knowledge what is to be practised'. This contains a warning that the man may consider a ḥadīth to be rigorously authenticated and form a legal opinion based on: its rigorous authenticity, and the belief that the authenticity of a ḥadīth is enough for it to be acted upon! However, Imām Aḥmad alerts him to the fact that this hastiness and delivery of legal opinions in an arbitrary fashion is unacceptable. Indeed, it is obligatory to ask the people of knowledge (*ahl al-'ilm*), who possess understanding (*fiqh*) and learning (*ma'rifah*): Should

¹⁶⁶ P. 13.

¹⁶⁷ Stop and consider the phrase 'their like'! And realise that the Islamic Ummah has been tried by means of those who remind us of the words of Allāh Most High:

﴿وَإِذَا قِيلَ لَهُمْ لَا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ—أَلَا إِنَّهُمْ هُمُ الْمُفْسِدُونَ وَلَكِنْ لَا يَشْعُرُونَ﴾

And if it is said to them, 'Do not bring corruption to the earth,' they say, 'We are merely reformers.' In fact, they are instigators of corruption, but they do not perceive it. (2:11–12)

¹⁶⁸ Vol. 1, p. 44.

this ḥadīth be practised or not? They will then give an opinion as to whether the ḥadīth is suitable to be practised or not.

The independent jurist (*mujtahid*) Imām, Sufyān ath-Thawrī رحمته الله, said: 'There are ḥadīths which are not to be practised.'¹⁶⁹ Ibn Abī Laylā also said, as previously mentioned: 'A man does not understand ḥadīth until he adopts some and abandons others.'¹⁷⁰

Al-Ḥāfiẓ adh-Dhahabī, in *Siyar A'lām an-Nubalā'*¹⁷¹ in the biography of Ibn Ḥazm, first quoted him as saying: 'I follow the truth, practise independent reasoning (*ijtihad*), and am not restricted by any school of law'. Then commented: 'I say, yes, whoever has achieved the level of *ijtihad*, and is witnessed as having done so by a number of Imāms, it will be inappropriate for him to follow a *madhhab*. In the same way, the lay student jurist, who memorises the Qur'ān or much of it, would never be permitted to practise *ijtihad*. For how would he do so? What would he say? What would be his basis? How would he fly before he has wings?'

'The third category consists of the *faqīh* who has completed his studies; who is a cautious and discerning narrator of ḥadīth; who has memorised texts of the practical applications of Islamic law (*furū'*), and a book on the founding principles of Islamic law (*qawā'id al-uṣūl*); who has read about grammar (*naḥw*) and has acquired virtues; together with his memorisation of the Book of Allāh, his devotion to its exegesis (*tafsir*), and the strength of his disputation. This is the level of someone who has achieved restricted *ijtihad* and is qualified to consider the proofs of the Imāms.

So when the truth of a ruling becomes apparent to him, and is proven by the text, and has been acted upon by one of the learned Imāms—such as Abū Ḥanīfah, for example, or Mālik, ath-Thawrī, al-Awzā'i, ash-Shāfi'i, Abū 'Ubayd, Aḥmad or Ishāq—then he should follow the truth therein¹⁷², and not procure dispensations, or be cautious. He will not be permitted to blindly follow an Imām (*taqlid*) once the proof [underpinning a ruling] has become manifest to him. If he fears dissension from among the jurists, he should speak of [the ruling] but not act upon it ostentatiously, for it might be that he is pleased with himself and likes the exposure. Then he

¹⁶⁹ Ibn Rajab, *Sharḥ al-'Ilal*, Vol. 1, p. 29.

¹⁷⁰ Ibn 'Abd al-Barr, *Jāmi' Bayān al-'Ilm*, Vol. 130, p. 2.

¹⁷¹ Vol. 191, p. 18.

¹⁷² Meaning: the truth in the view of that scholar.

will be punished, and the defect will have come from within him. For there has been many a man who has spoken the truth and enjoined good but whom Allāh has afflicted with those who harm him, due to his bad intention and his love of religious leadership! This is a hidden malady in the souls of the *fuqahā'*."

I say: Consider the words of al-Ḥāfiẓ adh-Dhahabī here: "...when the truth of an issue becomes apparent to him, and is proven by the text, and has been acted upon by one of the learned Imāms. . ."; and his previous words: "This does not include someone who adheres to a rigorously authenticated ḥadīth which other independent jurist (*mujtahid*) Imāms have avoided"; and what al-Ḥāfiẓ ibn Rajab al-Ḥanbalī said previously: "...some [of the Zāhiriyyah and their like] became associated with following the Sunnah and ḥadīth. In fact, they are at great variance with it, on account of their deviation. . . and their adoption of what the Imāms have not previously adopted."

It seems that adh-Dhahabī and Ibn Rajab are exposing with these words the claim of Ibn al-Qayyim about Imām Aḥmad رحمه الله, when he says¹⁷³: "He (Imām Aḥmad) would never prefer practice, subjective opinion, analogy, the teachings of a respected scholar, or his lack of knowledge to the contrary. . . to a *ṣaḥīḥ* ḥadīth."

Adh-Dhahabī's statement is explicit in stipulating that it is a *mujtahid* Imām who acts upon this ḥadīth. Ibn Rajab's statement is explicit in censuring the Zāhiriyyah and others who have deviated. He claims something which has not been said by others; the claim that they followed a ḥadīth which had been rigorously authenticated.

Some people have taken Ibn al-Qayyim's words here—and their like—as an excuse for deviation and dissent about an issue on which Imāms of great scholarly brilliance, such as al-Bayhaqī, Ibn Ḥajar and those after them, reported consensus! This is the issue of the prohibition of gold ring-shaped jewellery (eg. rings, bangles, necklaces etc.) or women!! We ask Allāh for guidance.

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¹⁷³ In *I'lām al-Muwaqqi'in*, Vol. 1, p. 30.

Aḥmad]. This is notwithstanding Ibn al-Qayyim's eminent knowledge of the principles (*uṣūl*) of his school of law in particular, and of the other *madhabs* in general.

In *Majmū' Fatāwā Shaykh al-Islām Ibn Taymīyah* رحمه الله¹⁷⁴ two statements are cited from Imām Aḥmad on a particular issue, one of which is well-known (*mashhūr*), while the second is probable (*muḥtamal*). Ibn Taymīyah رحمه الله said: "It is more appropriate to attribute what Imām Aḥmad says to that which is mutually substantiating, than to attribute it to that which is contradictory, especially when the other [contradictory] statement is an innovation, which is not known to have been narrated by one of the early generations (*Salaf*). Aḥmad [himself] says: 'Never voice an opinion regarding an issue in which you have no Imām.' He would also say, during the Miḥnah [i.e. the persecution of scholars who denied the created nature of the Qur'ān]: 'How should I say what has not been said before?'"

Al-Maymūnī said: "Aḥmad said to me, 'Abū'l-Ḥasan, never voice an opinion regarding an issue in which you have no Imām.'"¹⁷⁵

This is the Al-Maymūnī whom adh-Dhahabī described in his biography in *As-Siyar*¹⁷⁶ as, "the learned ḥāfiẓ and jurist (*faqīh*) Imām . . . student of Imām Aḥmad and one of the great Imāms".

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¹⁷⁴ Vol. 10, p. 320–321.

¹⁷⁵ Ibn Al-Jawzī, *Manāqib al-Imām Aḥmad*, p. 178; Al-Taymīyah, *Al-Musawwadah*, pp. 401, 484; and *Siyar A'lām an-Nubalā'*, Vol. 11, p. 296.

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It is considered madness by the wise and the learned to assert that which no one has previously asserted. This is just as aṣ-Ṣaymarī narrated in *Akḥbār Abī Ḥanīfah wa Aṣḥābihi*¹⁷⁷, from Imām Zufar ؓ, who said: “I do not dispute with someone when he says, ‘I made a mistake’, rather I dispute with him when he goes mad!” He was asked, “How does he go mad?” He replied, “He asserts that which no one before him has asserted.”

If you were to ask: What is your response to what Imām as-Subkī said about someone who comes across a rigorously authenticated ḥadīth which no one has previously acted upon, and whether it is permissible for him to act upon it? [This refers to the following statement of Imām as-Subkī] ؓ in *Maʿnā Qawl al-Imām al-Muṭallibī*¹⁷⁸: “In my view, it is most correct to follow the ḥadīth. A person should consider himself to be in the presence of the Prophet, and as though he has heard it [directly] from him. Would it be acceptable to delay acting upon it [in that case]? No, by Allāh. Each individual is liable [to practise] according to what he understands.”

I would say [in response]: First, that you should note as-Subkī’s expression: “In my view, it is most correct to follow the ḥadīth”. Note his words: “In my view”. This informs you that he is indicating that the issue is a matter of contention amongst the scholars (‘ulamā’). He prefers, in this context, to follow the ḥadīth under any circumstances, while others stipulate that it must have been acted upon by an Imām, as previously mentioned in the statements of adh-Dhahabī, Ibn Rajab and others.

This does not mean that the practice of the Imām is the arbitrator of the ḥadīth of the Messenger of Allāh ؐ, such that the ḥadīth is only authoritative when combined with its application by the Imām, and it is the practice of the Imām that makes the ḥadīth authoritative! No, Allāh forbid! The words of the Messenger of Allāh ؐ are legally binding for every Muslim.

Rather, what it means is that the Imām’s implementation of the ḥadīth is proof that there was no consensus amongst the early generations (*Salaf*)

¹⁷⁷ P. 110–111.

¹⁷⁸ *Majmūʿ Rasāʾil al-Munīriyyah*, Vol. 2, p. 102.

that it should be abandoned. Consensus that it should be abandoned would constitute proof of the existence of another ḥadīth relevant to the issue in question.

Another later scholar who preceded adh-Dhahabī and Ibn Rajab in stipulating this condition is Imām ibn aṣ-Ṣalāḥ. He did so in his previous remark¹⁷⁹, on which as-Subkī commented, as aforementioned. [Ibn aṣ-Ṣalāḥ’s] words are¹⁸⁰: “If these tools are incomplete”—i.e. the tools of independent reasoning (*ijtihād*), absolute (*muṭlaq*) or restricted (*muqayyad*)—“and he finds rancour in his heart in opposing the ḥadīth, having conducted research but found no clear answer given by those who opposed it; in this case, he should consider: Has an independent Imām acted upon this ḥadīth? If he finds [such an Imām], then he should adopt his position in acting upon this ḥadīth, in which case it will be a justification for his acting outside the school of his Imām in this matter.”

In the statements of the early generations there are many examples that a ḥadīth may be rigorously authenticated and not be acted upon. Some of these have just been mentioned¹⁸¹, such as Ibn Abī Laylā’s remark: “A man does not understand ḥadīth until he adopts some and abandons others”; and this, from the independent jurist (*mujtahid*) Imām, Sufyān ath-Thawrī, in *Sharḥ ʿIlal at-Tarmidhī* by Ibn Rajab¹⁸²: “There are ḥadīths which are not to be practised”; as well as this, from Imām al-Awzaʿī ؓ in *Tārīkh Abī Zurfah ad-Dimashqī*¹⁸³: “Learn what is not practised, just as you learn what is practised”; and many others.

Secondly, in Imām as-Subkī’s remark, there is a detail which requires understanding and study from anyone seeking to draw conclusions from it.

He says ؓ: “. . . A person should consider himself to be in the presence of the Prophet, and as though he has heard it [directly] from him. Would it be acceptable to delay acting upon it [in that case]? No, by Allāh.”

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¹⁸⁰ *Adab al-Muftī waʾl Mustafī*, p. 121.

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that the Messenger of Allāh ﷺ rebuked Abū Saʿīd ibn al-Muʿallā, after he had called him—whilst he was praying—and he didn't answer. [Abū Saʿīd ibn al-Muʿallā] said to him: "Messenger of Allāh, I was praying"; to which he ﷺ replied: "Did Allāh not say: 'Respond to Allāh and to the Messenger when he calls you?'" The ḥadīth is on *Al-Fātiḥah* being 'the Seven Oft-repeated Verses' (*as-Sabʿ al-Mathānī*) and the Glorious Qurʾān, in the beginning of the Book of *Tafsīr* from *Ṣaḥīḥ al-Bukhārī*.

He ﷺ rebuked Abū Saʿīd ibn al-Muʿallā for his delay in responding to his call whilst he was praying. How, then, could a Muslim delay acting upon a ḥadīth which he has heard from him, or which has been addressed to him?!

However, this refers to someone who has heard one ḥadīth on a particular issue, from the Messenger of Allāh ﷺ directly. With regards to our discussion, we are presupposing all who have lived in later times. This includes people of the first century, until our time, and until the Day of Judgement, who [may] have come across two ḥadīths on one issue, as in the case of the ḥadīth: "Perform ablution from that which fire has touched" [i.e. after consuming that which has been cooked over fire]¹⁸⁴, from Zayd ibn Thābit, Abū Hurayrah and ʿĀʾishah ʿ.

[In addition to this ḥadīth, there is] the ḥadīth that the Prophet ﷺ ate a bone (*ʿarq*)¹⁸⁵ of a sheep, and in one narration, a shoulder, and then he prayed without coming into contact with water. This was narrated by al-Bukhārī in the Book of Ablution (*Wuḍūʾ*), in the Section: 'Someone who doesn't perform ablution from the meat of a sheep or the peduncle (*sawīq*)'; from Ibn ʿAbbās, ʿAmr ibn Umayyah aḍ-Ḍamrī and Maymūnah, Umm al-Muʿminīn. Muslim also narrated it from them, directly after its previous narrations, adding a narration from Abū Rāfiʿ. In one of [Abū Rāfiʿ]'s narrations from Ibn ʿAbbās, it is said of the Prophet ﷺ that he went to pray, and a gift of bread and meat was brought to him. He ate three mouthfuls, and then prayed without coming into contact with water.

So, Zayd ibn Thābit and Abū Hurayrah clearly state that they heard the Prophet ﷺ say: "[Perform] ablution from [consuming] that which fire has touched", while Ibn ʿAbbās, ʿAmr aḍ-Ḍamrī, Maymūnah and Abū Rāfiʿ

¹⁸⁴ It was narrated by Muslim: Vol. 4, p. 43 from the Commentary of an-Nawawī; and in the text: Vol. 1, p. 272–273, (90).

¹⁸⁵ I.e. bone on which there is little meat.

all witnessed the Prophet ﷺ eating meat which had been touched by fire, then rising to pray without performing ablution anew.

For each of these, it is incorrect to delay acting upon what they saw as a result of being in the presence of the Prophet ﷺ—as as-Subkī said, and as was the reality for those revered Companions (*Ṣaḥābah*), may Allāh be pleased with them.

But what does someone who came after them, and knows of both ḥadīths, do? Undoubtedly, he will consider likelihoods (*murajjihāt*) [i.e. the external factors which give preference to one ḥadīth over another] and context, such as the ḥadīth of Jābir: "The later of the two instructions from the Messenger of Allāh ﷺ was to abandon ablution from [consuming] that which fire has touched".¹⁸⁶

Despite this, az-Zuhri held the view that the command to perform ablution from that which fire has touched abrogates the ḥadīth of permission [to eat meat without performing ablution], because the ḥadīth of permission came first, as in *Al-Fath*¹⁸⁷. See his explanation therein, after which he quotes from an-Nawawī: "Consensus has been established that there is no ablution from [consuming] that which has been touched by fire, with the exception of meat from a camel."

Imām as-Sarakhsī ʿ, in his *Uṣūl*¹⁸⁸, said something of great value which relates to our topic: "The words of the Messenger ﷺ necessitate absolute knowledge in their original form. Doubt (*shubḥah*) only arises regarding their transmission". So whoever hears a statement of his gains the benefit of absolute knowledge, which he is obligated to act upon. However, in the case of a person to whom the statement is transmitted, it may be that there are clear signs (*qarāʾin*) which make it as though he also is hearing it directly from [the Prophet] ﷺ. In this case, he too gains the benefit of absolute knowledge and is obligated to act upon it. Alternatively, doubt may arise regarding the manner of transmission—that is, the transmitter; or doubt may arise regarding what is transmitted: due to its contradiction of an established matter; its conflict with other [ḥadīths]; or other possibilities, of which our present topic is one example.

¹⁸⁶ Vol. 1, p. 310.

¹⁸⁷ It originates from Ibn ʿAbd al-Barr in *At-Tamhīd*, Vol. 332, p. 334.

¹⁸⁸ Vol. 1, p. 339.

In *Al-Awsaṭ*, by Ibn Mundhir¹⁸⁹: "It is related from Ḥammād ibn Salamah, that he said: 'If there come to you two ḥadīths from the same man, and you do not know which of them is the abrogator (*nāsikh*) and which is the abrogated (*mansūkh*); neither do you know which ḥadīth is the earlier and which is the later; then nothing has come to you from him.' That is, regard it as if nothing has been transmitted to you from him."

Abū Dawūd said in his *Sunan*¹⁹⁰: "If two ḥadīths from the Prophet ﷺ are in conflict, then what his Companions practised should be taken into consideration."

This topic is extensive, but the point proven from this is that the case of someone who did not hear [a ḥadīth] directly from the Prophet ﷺ—whether or not he is one of the Companions—differs from that of someone who "...considers himself to be in the presence of the Prophet, and as though he has heard it [directly] from him. . ." Thus, a person from the later generations will act upon one of the two ḥadīths, despite his knowledge of both of them. As for the person who heard the ḥadīths directly, he will also act upon one of the two ḥadīths: either having no knowledge of the other one, or having knowledge of it—such as if another Companion had narrated it to him—but without having witnessed the event. In that case, he would give preference to what he had witnessed over what had been transmitted to him. [That is,] unless we suppose that the Companion who had transmitted it to him was aware that the first command was subsequently abrogated.

Ibn 'Abbās witnessed the Prophet ﷺ eat three mouthfuls of meat, and then pray without coming into contact with water. When Abū Hurayrah narrated to him the ḥadīth: "Perform ablution from [consuming] that which fire has touched", he did not act upon it. [Rather,] he practised what he had witnessed, giving it preference over what he had heard via an intermediary. Ibn 'Abbās was not told: 'Consider yourself to be in the presence of the Prophet ﷺ'; neither was he asked: 'Could you possibly delay from acting upon what has reached you from him ﷺ?'

This reminds us of another situation involving Ibn 'Abbās, may Allāh be pleased with them both, in which there is a lesson of great relevance to our topic.

189 Vol. 1, p. 225.

190 Directly following (ḥadīth 1851).

Both Imām Aḥmad and aṭ-Ṭaḥāwī, in *Sharḥ Mā'ānī al-Āthār*¹⁹¹, narrated (according to the version of [aṭ-Ṭaḥāwī]): 'Urwah ibn az-Zubayr said to Ibn 'Abbās ﷺ, "You have misled the people, Ibn 'Abbās!" He replied, "How so, 'Urayyah¹⁹²?" He said, "You advise the people that, having performed circumambulation (*ṭawāf*) of the House of Allāh, they have terminated their state of ritual purity (*iḥrām*). However, Abū Bakr and 'Umar would both recite 'Labbayk!' with the intention of Ḥajj (*ṭalbiyyah*), and would then remain in a state of *iḥrām* until the Day of Sacrifice." Ibn 'Abbās replied, "This is why you are misguided! I narrate to you from the Messenger of Allāh ﷺ, while you narrate to me from Abū Bakr and 'Umar!" 'Urwah said, "Abū Bakr and 'Umar, may Allāh be pleased with them both, knew the Messenger of Allāh ﷺ better than you."¹⁹³

Aṭ-Ṭabarānī narrated it¹⁹⁴ in this form: 'Urwah said to [Abū Bakr], "You have frequently misled people". He replied, "How so, 'Urayyah?" ['Urwah] said, "A man goes out in a state of *iḥrām* for Ḥajj or 'Umrah, and once he performs *ṭawāf*, you claim he has terminated his state of *iḥrām*! Abū Bakr and 'Umar used to forbid this!" He—Ibn 'Abbās—said, vexed, "Are they preferable [i.e. given precedence] in your view, or that which is in the book of Allāh, and that which the Messenger of Allāh ﷺ prescribed for his followers and his Ummah?!" 'Urwah replied, "They knew the Book of Allāh, and that which the Messenger of Allāh ﷺ prescribed, better than me or you".

Ibn Abī Mulaykah, who narrated this from 'Urwah, said: "Urwah won the argument."

The fact that Ibn 'Abbās had witnessed a command of the Messenger of Allāh ﷺ made him capable of attributing the error of the Ummah to their delay in acting upon [this command], in favour of acting upon another command. This is because Ibn 'Abbās was not aware of any alternative command. However, 'Urwah says: "We do not oppose the guidance

191 *Al-Musnad* Vol. 1, p. 252; and aṭ-Ṭaḥāwī Vol. 2, p. 189.

192 'Urayyah': diminutive form of 'Urwah'.

193 The version narrated by 'Urwah in *Al-Musnad* is: "They both followed the Messenger of Allāh ﷺ more closely and knew him better than you". In *At-Tamhīd* (Vol. 3, p. 353) it is narrated from the reliable Imām Yaḥyā ibn Sa'īd al-Anṣārī ﷺ, who said: "Abū Bakr and 'Umar were the closest followers of the guidance of the Messenger of Allāh ﷺ". See also this issue in *Zād al-Mā'ād* (Vol. 2, p. 178–223), and *I'lā' as-Sunan*, (Vol. 10, p. 258–274).

194 *Al-Awsaṭ*, Vol. 1, p. 24, (21).

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194 *Al-Awsaṭ*, Vol. 1, p. 24, (21).

of the Messenger of Allāh ﷺ by putting into practice what Abū Bakr and 'Umar said. Rather, we have two commands before us; that which Ibn 'Abbās witnessed and that which Abū Bakr and 'Umar witnessed, so we give preference to what the two say about him, due to their greater knowledge of the affairs of the Messenger of Allāh ﷺ."

This is our answer to those who call upon us to reject the *fiqh* of Abū Ḥanīfah, Mālik, ash-Shāfi'ī and Aḥmad, and to adopt what they call, 'fiqh of the Sunnah and the Book', or 'fiqh of the Sunnah', and other similar names and slogans! We say to them: We do not accept you in place of them, for they know the Messenger of Allāh ﷺ better than you. In fact, the phrase 'know. . . better' is not the most apt here, since there is no correlation between you and these Imāms in terms of knowledge. Indeed, it is our desire to adhere to the guidance of the Prophet ﷺ which drives us to adopt what they have understood from the pristine Sunnah.

As for those who adhere to this argument regarding the position of Ibn 'Abbās—after they have mutilated it and related it only in part—we see that they nevertheless do not cling to Ibn 'Abbās' other opinions, in which he speculates on the reason behind a judgement—according to his independent reasoning (*ijtihād*)—without restricting his speculation to the apparent meaning of the text. This includes his claim that walking briskly (*ramal*) during circumambulation of the Ka'bah (*tawāf*) is not a sunnah. Rather, he said about those who regarded it as a sunnah: "They lied"—i.e. they were mistaken—as in *Ṣaḥīḥ Muslim*¹⁹⁵. However, 'Umar said: "Something that the Prophet ﷺ did, we do not like to abandon", as in *Ṣaḥīḥ al-Bukhārī*¹⁹⁶.

This, then, is the answer to Imām as-Subkī's statement, about which that fool, in the Introduction to *Al-Āyāt al-Bayyināt* (page ح) said: "It is a mortal blow to the fanatic!" And since this 'mortal blow' of his is so simple to respond to, what do you think of tearing his other arguments to shreds?! On consideration they are no more than uncertainties, which can be described in the same terms as the response of someone who is asked, 'What do you desire?' To which he replies, 'I desire an argument which struts visibly, and a sophism which crumbles when exposed.'

¹⁹⁵ Vol. 2, p. 921, (237).

¹⁹⁶ Vol. 3, p. 471, (1605), from the earlier edition.

In response to the second statement, which is that a Muslim is ordered to follow the Prophet ﷺ and no one else, we say to whoever utters it:

The necessary conclusion of what you say is that the Imāms of Islām—a mere fragment of whose words we have mentioned—advocating adherence to the Sunnah, and warning that abandoning it in terms of learning or practice constitutes deviation, failure and straying from the path of righteousness. . .

The necessary conclusion of what you say is that these Imāms were not following the guidance of the Prophet ﷺ and that you, therefore, wish to follow the Prophet ﷺ without following their way. It is as if you see them as the learned men of other religions: as monks, making lawful for the people and prohibiting without any proof from the Book of Allāh Most High and the Sunnah of his Noble Prophet ﷺ! This is despite the fact that they were more adherent to the Sunnah than the mind of one who loves them can imagine; and that they did nothing but convey to the people after them the commands and prohibitions of the Prophet ﷺ, just as the muezzin conveys the Imām's *takbīrs* to the rows furthest from him.

If you say: 'I like to understand the laws (*aḥkām*) of my religion based on evidence, and I cannot understand this law as Abū Ḥanīfah puts it, but I have understood it according to the manner in which ash-Shāfi'ī put it. Since I am not comfortable practising something if I do not understand the evidence for it, I will therefore practise it according to the Shāfi'ī school. Is there any sin in that?'

The answer is that this roaming from *madhhab* to *madhhab* is for one of the following reasons:

It may occur as a result of following an Imām (*taqlīd*), due to a matter which occurred to the person following (*muqallid*). There is no harm in this—the permissibility of *taqlīd* is too well known a subject to require further discussion here.

Alternatively, it comes about through pursuing dispensations (*rukhas*) within the different positions of the Imāms, which is not permissible. I am not discussing this presently and will therefore not dwell on it.

Finally, it may stem from research into this particular issue, and formulation of an independent legal opinion (*ijtihād*). In this case, the following must be considered:

If the researcher is qualified for the role of allocating preference

between the proofs of the independent jurist (*mujtahid*) Imāms, and capable of dealing fairly, then there is no harm in it. On the contrary, such an undertaking is a matter of pride for Islamic jurisprudence and for Islamic scholars. How could it be disputed, when it has often been undertaken by many of our later Imāms—not to mention the earlier ones—such as an-Nawawī, Ibn aṣ-Ṣalāḥ, al-‘Izz ibn ‘Abd as-Salām, Ibn Taymiyah, Ibn al-Qayyim, at-Taqqī as-Subkī and Ibn al-Humām, over the course of centuries until our time.

You will find that even our great Shaykh, al-‘Allāmah al-Kawtharī, in his book *Al-Maqālāt*, despite his widely held reputation for fanatical adherence to the Ḥanafī *madhhab*, discards Abū Ḥanīfah’s opinion that a public endowment (*waqf muḥabbas*) is not established except by decree of the ruler. Rather, he prefers the position of the majority of the Ummah, and that which has been established by rigorously authenticated ḥadīths and by the deeds of the Companions. He reiterates that: “There are issues in which Abū Ḥanīfah follows the examples of Shurayḥ and an-Nakhā‘ī, without taking pains to become acquainted with the evidence for some of their statements. Therefore, if the truth becomes clear and the evidence apparent, in contradiction to one of these statements, it is not correct to attribute to [Abū Ḥanīfah’s] independent reasoning (*ijtihād*) that in which he followed others without [knowing their] evidence, and after which the mistake of the one he followed became apparent as clear as day. This is because *ijtihād* can only be applied in issues which have no [clear] texts. . .”¹⁹⁷

What [al-Kawtharī] says here applies to the issues which he described in the Introduction to his book *An-Nukat at-Tarīfah*¹⁹⁸ as follows: “The fourth segment of this pentangle is that in which his mistake becomes apparent in the most revealing manner.” The number of issues encompassed by the pentangle, according to what he says there, exceeds ten.

The same is true of our other great Shaykh, al-‘Allāmah Zafar Aḥmad al-‘Uthmānī at-Tahānawī, who abandoned the established ruling of the Ḥanafī *madhhab* in favour of other rulings in a number of places in his

¹⁹⁷ A wise statement, which al-Khaṭīb in *Al-Faḥḥ wa’l-Mutafaqqih*, (Vol. 2, p. 58), attributed to al-Ma’mūn al-‘Abbāsī: “If the evidence becomes apparent, listening to someone who disputes it becomes a burden.”

¹⁹⁸ P. 5.

comprehensive and accurate book, *I’lā’ as-Sunan*. This is notwithstanding his obvious zeal for adherence to his *madhhab* throughout the book in question.

On the other hand, if [the researcher] is unqualified [to allocate preference between the proofs of the *mujtahid* Imāms] and incapable of dealing fairly in his research—as is the case of those arrogant pretenders and violators of the sanctity of the early generations (*Salaf*), who claim association with them, when in fact it is nothing but deviation, disloyalty, disputation and hypocrisy—then this is what we reject. We do not consent to this for anyone, however much he is draped in titles and lineage!

We say to these blind fools:

This roaming from the Ḥanafī *madhhab* to the Shāfi‘ī *madhhab* on this issue leads to roaming on another issue to the Mālikī *madhhab*, for example, and to roaming to the Ḥanbalī *madhhab* on another issue again. In this way, the chain leads back to its beginning on a fourth issue, or to other *madhhabs* besides the four *madhhabs* [of the Imāms] which have died out over time. . .

This roaming is what the Khalīfah Imām ‘Umar ibn ‘Abd al-‘Azīz referred to in his statement which ad-Dāramī narrated from him¹⁹⁹: “. . . whoever makes his religion (*dīn*) an object of disputation²⁰⁰ will frequently roam.” It will eventually come to pass that this roamer who allocates preference between the *madhhabs* of the Imāms—it will finally come to pass that he will rule for himself that he should secede from the four *madhhabs*. . . and from the forty. . .”

This statement of ‘Umar ibn ‘Abd al-‘Azīz relates to an incident which happened to Imām Mālik, which he cited. Since it is relevant to the topic, I will relate it, quoting from *Al-Intiqā’*²⁰¹ by al-Ḥāfiẓ ibn ‘Abd al-Barr. He narrated it with his chain of transmission to Ma’n ibn ‘Īsā, one of the students of Imām Mālik.

Ma’n ibn ‘Īsā said: “Mālik left the mosque one day, leaning on my arm. He was approached by a man called Abū al-Juwayriyyah—who was

¹⁹⁹ In his *Sunan*, Vol. 1, p. 91.

²⁰⁰ I.e. an object of argument.

²⁰¹ P. 33.

accused of being from the Murji'ah sect [who over-relied on 'hope' and deemed 'action' to be unimportant]. [Abū al-Juwayriyyah] said: 'Abū 'Abd Allāh, listen to something which I will discuss with you. I will debate with you and inform you of my opinion.' He"—Mālik—"said: 'And if you defeat me?' He replied: 'You follow me.' He [Mālik] said: 'And if I defeat you?' He replied: 'I follow you.' [Mālik] said: 'And what if someone comes to us who discusses it and defeats both of us?' He replied: 'We follow him.' Then Abū 'Abd Allāh [Mālik] said: 'Allāh sent Muḥammad ﷺ with one religion (*dīn*), whereas I see that you are roaming [from one position to another]. 'Umar ibn 'Abd al-'Azīz said: 'Whoever makes his religion an object of disputation will frequently roam.'"

This individual, who claims to follow evidence without following the Imāms, inevitably makes statements which no one has made before, without realising. Indeed, he maintains that he is a guardian of the Sunnah and a missionary for it!

This notion is a self-deception and a passageway to an inevitable end, about which Imām Mālik gave the best possible warning: "Submit oneself to the Imāms and do not dispute with them; for if every time there came to us a more competent disputant, we followed him, we would be in danger of refuting what Jibrīl ﷺ brought to us."²⁰²

Despite your claim not to understand the evidence for the ruling as stated by Abū Ḥanīfah, and your [claim] to understand it as ash-Shāfi' puts it, this claim of yours closely resembles the conduct of those aforementioned scholars who claimed that the ḥadīth regarding this issue is rigorously authenticated. This is contrary to the position of ash-Shāfi', and so they abandoned what is stipulated about it in his school of law, and acted upon what they considered correct. Your conduct here resembles their conduct. In fact, they are the same, and you have seen the consequences of this conduct. May Allāh be pleased with Sufyān ibn 'Uyaynah, who said: "Submitting to the jurists (*fuqahā'*) is safety in religion."²⁰³

The reader should note that the words of the three Imāms—Mālik and Ibn 'Uyaynah here, and Ibn Wahb in what preceded²⁰⁴—are consistent in

²⁰² Al-'Allāmah ash-Sha'rānī ﷺ, *Al-Mizān al-Kubrā*, Vol. 1, p. 51.

²⁰³ Al-Qurashī, *Al-Jawāhir al-Muḍīyyah*, Vol. 1, p. 166. See also the account of this statement in the comments on p. 132.

²⁰⁴ Pp. 80–93 and what follows.

advocating the necessity of consulting the *fuqahā'* Imāms, without which a person would be at risk of erring in his religion!

For this reason, the Imāms of ḥadīth narration understood the value of *fiqh*, and of the *fuqahā'*, and would direct their students towards it and encourage them to sit with its Imāms.

Ibn 'Abd al-Barr²⁰⁵ related, with his chain to 'Alī ibn al-Jā'd, the ḥadīth scholar (*muḥaddith*) Imām, who said: "We were with Zuhayr ibn Mu'āwiyah, when a man came to him. Zuhayr said to him: 'Where have you come from?' He answered: 'I have been with Abū Ḥanīfah.' To which Zuhayr said: 'Going to Abū Ḥanīfah for one day is more beneficial for you than coming to me for a month.'"

It is this Zuhayr ibn Mu'āwiyah whom adh-Dhahabī²⁰⁶ described as 'the ḥāfiẓ and the authority (*al-Hujjah*)', quoting about him the words of Shu'ayb ibn Ḥarb: "In my view, Zuhayr is a greater memoriser of ḥadīth (*ḥāfiẓ*) than twenty of the likes of Shu'bah" (i.e. ibn al-Ḥajjāj the distinguished Imām)!

In *Tahdhīb Tārikh Ibn 'Asākir*²⁰⁷ 'Abd Allāh ibn al-Imām Aḥmad, may Allāh be pleased with them both, said: "A group of the people of ḥadīth (*aṣḥāb al-ḥadīth*) attended one of the gatherings of Abū 'Āṣim an-Nabīl aḍ-Ḍaḥḥāk ibn Makhlad, who said to them: 'Do you not seek a deep understanding of religion (*tafaqquh*)? Is there not a jurist (*faqīh*) amongst you?' He started to criticize them, so they said: 'We have one man!' 'Who is he?' he asked. They replied: 'He is coming now.' When my father arrived, they said: 'He has arrived.' He [Abū 'Āṣim] looked at him, and said: 'Come forward.' He replied: 'I hate to step over people.' Abū 'Āṣim said: 'This is a sign of his understanding (*fiqh*).' Then he said: 'Make way for him.' So they made way. They sat him before [Abū 'Āṣim] and he asked him about a legal issue, which he answered. He then asked about a second and a third, which he also answered. [He asked about] further issues, which he again answered, such that Abū 'Āṣim was impressed."

Consider Abū 'Āṣim's instruction to those gathered that they gain a deeper understanding of the Sunnah, and his deference towards someone who gave due consideration to this approach.

²⁰⁵ In *Al-Intiqā'*, p. 134.

²⁰⁶ *At-Tadhkirah*, Vol. 1, p. 233.

²⁰⁷ Ibn Badrān, Vol. 2, p. 38.

It is this Abū ‘Āsim who said: “Leadership in the field of ḥadīth without knowledge—i.e. deep understanding—is a debased leadership.”²⁰⁸

It is stated in *Al-Ḥāwī*²⁰⁹, by Imām as-Suyūṭī ؒ: “The early generations said that a ḥadīth scholar (*muḥaddith*) without understanding (*fiqh*) is like a pharmacist who is not a doctor—the medicines are stored in his shop but he doesn’t know why they work; while the jurist (*faqīh*) who has no knowledge of ḥadīth is like a doctor who is not a pharmacist—he knows which medicines will work, but he does not possess them.”

This is what relates to the first reason for the differences between the *fuqahā*’ as regards ḥadīth.

I will now progress to the second reason.

²⁰⁸ As in *Al-Muḥaddith al-Fāṣil*, p. 253.

²⁰⁹ Vol. 2, p. 398.

THE SECOND REASON

The differences [amongst the Imāms] in terms of understanding the noble ḥadīth

DIFFERENCES AMONGST THE Imāms in terms of their understanding of the noble ḥadīth always derive from one of two issues:

- 1 Differences amongst those considering the ḥadīth in terms of their perceptive faculties and intellectual capabilities.
- 2 That the wording of the ḥadīth admits of more than one possible meaning.

Regarding the first issue—the occurrence of difference due to the nature of the researchers—this is something that no reasonable person would call into question, since people vary in terms of their powers of reason, the extent of their perception and the strength of their observations. This variance could be [a consequence of] their innate character and natural disposition, or it could be acquired and learnt, a consequence of the diverse and variegated nature of society. [It could be as a result of] travel, attending gatherings and participating in rational discussion; or from a person’s work: such as the judge (*qādī*), whose professional practice acquaints him with the nature of people and their devices; or engagement in certain worldly affairs, such as commerce (*tijārah*), for example.

Imām ash-Shāfi’ī was asked: “Tell us about the intellect—is a person born with it?” He replied: “No, rather it develops through sitting with men and engaging people in rational discussion.”²¹⁰

²¹⁰ Abū Nu’aym, *Al-Ḥilyah*, Vol. 9, p. 121.

Through His grace, Allāh Almighty may facilitate this for some people, making all this part of their natural disposition, as Aws ibn Hujr²¹¹ said: "The brilliant intellect, who conjectures as if he has seen and heard. . ."

Ibn ar-Rūmī also said: "A brilliant intellect sees at first sight the crux of the issue, beyond that which is concealed. . ."

Moreover, Allāh enables them to acquire all this, increasing their powers incrementally. All this is observable amongst the people, both in ancient and modern times.

Allāh most High has facilitated this for all the Imāms of Islām without exception, praise be to Allāh, Lord of the worlds! However, it does not necessarily follow that they are all equal, and consequently some differences have ensued as a result of their diversity in this respect.

Ash-Shāfi'ī رحمہ اللہ, at the beginning of *Ar-Risālah*, discussed the diversity of the scholars (*ulamā*) with respect to their understanding of the *Sunan*. He confirms what I have said: "They are of different levels in terms of what they understand of it."

I will throw light on this topic by means of some examples and testimonies:

Example 1: Imām Abū Ḥanīfah was with al-A'mash—the Follower (*Ṭabī'ī*) who was famous for recitation of the Qur'ān in its various modes and narration of ḥadīth—when the Imām [i.e. Abū Ḥanīfah] was asked about an issue: "What do you say about such and such?"

The Imām said: "I say such and such."

Then al-A'mash said: "Where did you get that from?"

The Imām replied: "You narrated to me from Abū Ṣāliḥ, from Abū Hurayrah; and from Abū Wā'il, from 'Abd Allāh ibn Mas'ūd; and from Abū Iyās, from Abū Mas'ūd al-Anṣārī, that the Messenger of Allāh ﷺ said: "Whoever guides to a good [deed] is rewarded as if he performed this good [deed]."

You also narrated to us from Abū Ṣāliḥ, from Abū Hurayrah that a man said to him ﷺ: "Messenger of Allāh, I was praying in my house when a man came in, which made me feel pleased." He ﷺ said: "You have two rewards: the reward for keeping [it] secret, and the reward for making [it] known."

²¹¹ As in *Al-Bayān wa't-Tabayyun*, Vol. 4, p. 68.

You also narrated to us from al-Ḥakam, from Abū al-Ḥakam, from Ḥudhayfah, from him ﷺ. . .

You also narrated to us from Abū Ṣāliḥ, from Abū Hurayrah, attributed (*marfū*) to the Prophet ﷺ. . .

You also narrated to us from Abū'z-Zubayr, from Jābir, attributed to the Prophet ﷺ. . .

You also narrated to us from Yazīd ar-Raqāshī, from Anas, attributed to the Prophet ﷺ. . .

So Al-A'mash said: "That will suffice! What I narrated to you in one hundred days you have related to me in a moment! I was not aware that you dealt with these ḥadīths. Oh jurists (*fuqahā*), you are the doctors, and we are the pharmacists; whereas you, oh man, you have adopted both sides."²¹²

Example 2: Imām Aḥmad said to ash-Shāfi'ī, may Allāh be pleased with them both: "What is your position on such-and-such issue?" He answered him about it. Then Aḥmad said: "What is your opinion based on? Is there a ḥadīth or a reference from the Book of Allāh about it?" He [Aḥmad] said: "He [ash-Shāfi'ī] replied by producing a ḥadīth on the matter, which is a precisely worded [i.e. explicit] (*naṣṣ*) ḥadīth."²¹³

Example 3: In the biography of Imām Abū Ḥanīfah from *Tārīkh Baghdād*²¹⁴, it is attributed with a chain of transmission to Imām 'Abd Allāh ibn al-Mubārak that he said: "I arrived in the Levant (ash-Shām) to al-Awzā'i and saw him in Beirut (Bayrūt). He said to me: 'Khurāsānī, who is this innovator (*mubtadi*) who has emerged in Kufa, who goes by the name (*kunya*) of Abū Ḥanīfah?' I returned to my house and went to the books of Abū Ḥanīfah, from which I selected some of the outstanding rulings. I continued thus for three days. On the third day I went to

²¹² From *Manāqib al-Imām Abī Ḥanīfah* and some of his companions, by al-'Allamah 'Alī al-Qārī, published at the end of *Al-Jawāhir al-Muḍīyyah*, (Vol. 2, p. 484), with abridged texts of the ḥadīths. The original account was narrated by al-Khaṭīb in *Al-Faqīh wa'l-Mutaḥaqqiq*, (Vol. 2, p. 84). A similar incident occurred between al-A'mash and al-Qāḍī Abū Yūsuf, the companion of Abū Ḥanīfah رحمہ اللہ. See *Jāmi' Bayān al-'Ilm*, Vol. 2, p. 130–131, and *Akhbār Abī Ḥanīfah wa Aṣḥābihi*, by aṣ-Ṣaymarī, p. 12–13.

²¹³ From *Manāqib ash-Shāfi'ī*, by al-Bayhaqī, Vol. 2, p. 154. The meaning of the word '*naṣṣ*' here is that the wording is explicit in conveying the intended meaning, and does not admit of any other possible meaning, due to the extent of its clarity regarding what is required.

²¹⁴ Vol. 13, p. 338.

al-Awzā'ī—who was the mu'adhdhin and imām of the local mosque—with the book in my hand. He said: 'What is that book?' I handed it to him and he examined a case (*mas'alah*) which I had marked: *An-Nu'mān* said. He remained standing, after calling the *adhān*, until he had read a sizeable portion of the book. He then put the book up his sleeve, gave the second call to prayer (*iqāmah*), and prayed. Then he took out the book [and went through it] until he came to the same case. He said to me: 'Khurāsānī, who is this an-Nu'mān ibn Thābit?' I replied: 'A Shaykh whom I found in Iraq.' He said: 'He is an outstanding Shaykh, go and seek more from him.' I said: 'It is Abū Ḥanīfah, whom you repudiated!'

Ḥāfiẓ ad-Dīn al-Kardārī added, in his *Manāqib*²¹⁵, from a different narration from the same Ibn al-Mubārak: "Then we met in Makkah, and I saw al-Awzā'ī discussing those cases with Abū Ḥanīfah. The Imām was revealing to him more than I had written down from him. When they parted, I asked al-Awzā'ī: 'How did you find him?' He said: 'I envy the man for the extent of his learning and the power of his intellect, and I ask Allāh Most High for forgiveness, as I was clearly mistaken. Adhere to this man, for he is the opposite of what I heard about him.'"

Example 4: Al-Khaṭīb also²¹⁶ narrated in the biography of 'Īsā ibn Abān, a scholar of ḥadīth and Ḥanafī fiqh, from Muḥammad ibn Samā'ah: "Īsā ibn Abān used to pray with us—i.e. in the mosque in which Imām Muḥammad ibn al-Ḥasan ash-Shaybānī would pray and sit to discuss fiqh. I would ask him to come to Muḥammad ibn al-Ḥasan, and he ['Īsā ibn Abān] would say: 'They are people who contradict ḥadīth', whereas 'Īsā was a good memorizer of ḥadīth. One day he prayed the Morning Prayer (*Ṣalāt aṣ-Ṣubḥ*) with us. It was the day of Muḥammad's gathering. I did not leave him until he joined the gathering. When Muḥammad had finished, I took ['Īsā] close to him and said: 'This is the son of your brother, Abān ibn Sadaqah, the scribe. He is intelligent and knowledgeable in the field of ḥadīth. I invite him to sit with you, but he refuses, saying that we contradict ḥadīth!'

215 P. 45 of the version published with *al-Manāqib* by al-Muwaffaq al-Makkī; also in *Awjāz al-Masālik Ilā Sharḥ Muwaṭṭa' Mālik*, Vol. 1, p. 88–89, by our Shaykh, the Shaykh of Ḥadīth, al-'Allāmah Muḥammad Zakarīyyā al-Kāndihliwī.

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He [Muḥammad] turned towards him and said to him: 'My son, in what is it that you have seen us contradict ḥadīth? Do not testify against us until you have heard from us.' That day he ['Īsā] asked him about twenty-five chapters of ḥadīth. Muḥammad ibn al-Ḥasan set about answering him, informing him which had been abrogated and providing attestations and proofs.

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The point which is proven by these narrations is clear, even if this last story contains proof of the final forthcoming reason, which concerns the difference between their (i.e. the Imāms') depth of knowledge of ḥadīth.

The second matter which resulted in differences of opinion amongst the Imāms due to their differing understanding of ḥadīths, is that the wording (*alfāz*) of the ḥadīth admits of more than one possible meaning.

This is a real issue, which has also been testified to. In such cases, the authenticity of the various meanings depends on the following:

First, that it is acceptable and permissible from the perspective of [the rules of] the Arabic language: it does not contradict them, or deviate from them, or produce affectation;

Second, and that it does not contradict other established laws (*aḥkām*), derived from other texts [of the Qur'ān and Sunnah].

I state these two conditions for further clarification. However, the Imāms of fiqh, whose reasons for differing we are discussing, are above disregarding these points. It is the role of the Imām, when faced with wording (*naṣṣ*) that admits of more than one meaning, to search rigorously for signs and indications (*qarā'in*) which give preference to one of the various meanings.

It will do no harm to cite an example clarifying this case—that of wording which admits of more than one possible meaning.

In a ḥadīth from the Prophet ﷺ, he says: "Both parties to a commercial transaction have a right to choose [whether to effect the transaction] until they part." The scholars ('*ulamā'*') differed about the meaning of 'parting' (*tafarruq*) here. Is the intended meaning a physical parting? That is, both

al-Awzā'ī—who was the mu'adhdhin and imām of the local mosque—with the book in my hand. He said: 'What is that book?' I handed it to him and he examined a case (*mas'alah*) which I had marked: *An-Nu'mān said*. He remained standing, after calling the *adhān*, until he had read a sizeable portion of the book. He then put the book up his sleeve, gave the second call to prayer (*iqāmah*), and prayed. Then he took out the book [and went through it] until he came to the same case. He said to me: 'Khurāsānī, who is this an-Nu'mān ibn Thābit?' I replied: 'A Shaykh whom I found in Iraq.' He said: 'He is an outstanding Shaykh, go and seek more from him.' I said: 'It is Abū Ḥanīfah, whom you repudiated!'

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I state these two conditions for further clarification. However, the Imāms of fiqh, whose reasons for differing we are discussing, are above disregarding these points. It is the role of the Imām, when faced with wording (*naṣṣ*) that admits of more than one meaning, to search rigorously for signs and indications (*qarā'in*) which give preference to one of the various meanings.

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the seller and the buyer may choose to confirm the contract or to cancel it as long as they remain in session or in the place of the agreement. So that if one of them withdraws from the other a short distance, or leaves the session, the contract is binding, and neither of them has the right to cancel it without the agreement of the other. This is the position adopted by ash-Shāfi'i and others.

Or is the intended meaning a verbal parting? That is, both the seller and the buyer may choose to confirm the agreement or to cancel it as long as they remain in discussion of what is being contracted and matters relating to it. So that if they conclude the transaction and move on to another topic of discussion, the contract is binding, and neither of them has the right to cancel it without the agreement of the other. This is the position of Abū Ḥanīfah and others.

Both sides have their proofs and authoritative sources, of which I will only present some and in brief. My objective is merely to expose the reason for the difference of opinion regarding this aspect; not to present the exhaustive proofs of both sides, and allocate preference between the two positions, since this is not the role for individuals like us.

Imām ash-Shāfi'i and those with him argued for the validity of their opinion on the basis of what has been transmitted (*athar*)—i.e. transmitted proof—and reasoning (*naẓar*)—i.e. comprehension and understanding.

As for the transmitted proof, it is the action of the ḥadīth's narrator, Sayyidunā 'Abd Allāh ibn 'Umar. If he bought something from someone, he would withdraw from him a distance of a few steps, and then return to him if he needed anything. The understanding of a Companion (*Ṣaḥābī*) for what he narrates is closer to what is correct than the understanding of others.²¹⁷

As for [logical] reasoning: the ḥadīth says: "Both parties to a commercial transaction have a right to choose [whether to effect the transaction] until they part (*yatafarraqā*).²¹⁸" The two parties to the transaction are originally separate. That is, the seller is in his shop, for example, and the buyer is in his house, for example. Then the buyer comes to the seller and they meet in the place of transaction; they contract an agreement, and then

²¹⁷ Many other [pertinent] ḥadīths are mentioned by Imām an-Nawawī in *Al-Majmū'*, Vol. 9, p. 197.

return to their original situations. This is their parting from each other. Indeed, what the Prophet ﷺ meant by his words: "until they part" (*mā lam yatafarraqā*), is their return to their original situations, whereby each is in his place. And Allāh knows best.

Abū Ḥanīfah and those with him also argued for the validity of their opinion on the basis of transmitted proof (*athar*) and reasoning (*naẓar*).

As for the transmitted proof, [they cite] His Words, Almighty is He:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ﴾

Oh you who believe, do not consume your property amongst yourselves unjustly, unless it is a trade between you, by mutual consent. (4:29)

The *āyah* conveys that mutual consent (*tarāḍin*) is the basis for the contract to be binding, and this consent is epitomised by offer and acceptance, which have taken place between the two parties.

Regarding the wording "until they part" (*mā lam yatafarraqā*), they are to be re-orientated towards another meaning, so as not to contradict the *āyah*. This re-orientation is that it is said: 'until they part verbally'. In the wording of the canonical (*sharī*) sources, 'parting' (*at-tafarruq*) often appears with the meaning of 'verbal parting' only, without admitting of the meaning of 'physical parting'. Thus, in the Words of the Most High:

﴿وَأَعْتَصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا﴾

And hold fast [all of you] together to the Rope of Allāh, and do not be divided (3:103).

And His Words:

﴿وَمَا تَفَرَّقَ الَّذِينَ أُوتُوا الْكِتَابَ إِلَّا مِنْ بَعْدِ مَا جَاءَتْهُمْ الْبَيِّنَةُ﴾

The People of the Scripture were not divided until after the Clear Proof (*Bayyinah*) had come to them (98:5).

And other verses.

As for [logical] reasoning: In the story narrated by al-Ḥāfiẓ ibn 'Abd al-Barr²¹⁸, from "Sufyān ibn 'Uyaynah, who said: 'Abū Ḥanīfah would give

²¹⁸ In *Al-Intiqā'*, p. 149. See also *Al-Jawhar an-Naqī*, Vol. 5, p. 272, with *Sunan al-Bayhaqī*.

examples [clarifying] the ḥadīths of the Messenger of Allāh ﷺ, refuting [the alternative interpretation] by means of his knowledge²¹⁹. I narrated to him from the Messenger of Allāh ﷺ: "Both parties to a commercial transaction have a right to choose [whether to effect the transaction] until they part", to which Abū Ḥanīfah said: 'Have you considered how they would part if they were on a boat?' Sufyān said: 'Have you heard of anything worse than this?'²²⁰

This answer of the Imām's is extremely precise and expresses the intended meaning concisely. He means to say, if 'parting' is 'physical parting', there are cases in which physically parting is not possible, such as, if the two were in a small boat in the middle of the sea with no possibility of one of them distancing himself from the other. This leads to a difficult situation in which the session of the transaction remains on-going between them, and is not concluded for the duration of their remaining that way, even if it lasts for days or more!

When this example contradicted the understanding of Sufyān ibn 'Uyaynah ؓ, he thought that Imām Abū Ḥanīfah was contradicting the noble ḥadīth by means of his own intellect. This was not the case.²²¹

This (i.e. the ḥadīth "Both parties to a commercial transaction have a right to choose [whether to effect the transaction] until they part") is an example of wording which admits of two possible meanings. It is also an example of the first issue; people's differing opinions according to their natural intellectual aptitude. And Allāh knows best.

I do not wish to cite additional examples of this main reason for the differences of the Imāms regarding ḥadīths. This will afford time in order

219 It is mentioned like this; however, it is perhaps: 'by means of his reason?'

220 This may have been Sufyān ibn 'Uyaynah's early position, after which he improved his opinion of Imām Abū Ḥanīfah. This is supported by [the account] in *Al-Jawāhir al-Mudīyyah*, Vol. 1, p. 166, from Bishr ibn al-Walid al-Kindī, one of the pupils of Abū Yūsuf, may Allāh have Mercy on them all. Bishr said: "If a problematic issue arose while we were with Ibn 'Uyaynah, he would say: 'Is there anyone who is a follower of Abū Ḥanīfah?' The response would be: 'Bishr.' He would say: 'Answer it.' So I would answer. Then he would say: 'Submission to the jurists (*fuqahā*) is safety in religion (*dīn*).'"

221 In *Al-Intiqā'*, by Ibn 'Abd al-Barr, p. 136, al-Faḍl ibn Mūsā as-Sinānī, one of the Ḥafīẓ Imāms who met Abū Ḥanīfah and his followers, was asked: "What is your opinion of those who criticise Abū Ḥanīfah?" To which he said: "Abū Ḥanīfah brought them knowledge that they comprehend and knowledge that they do not comprehend. He did not leave anything for them, so they envied him."

to draw attention to a very important point. Those canonical laws (*aḥkām shar'iyyah*) which have been derived from the Book and the Sunnah are a part of the religion (*ad-dīn*), having been traced back to the Book and the Sunnah. They are not alien to it. Furthermore, the Book and the Sunnah are the main sources of Islām, so the fiqh which is derived from them occupies the same position, and cannot be separated from them.

As-Suyūṭī said in *Al-Itqān*²²² at the beginning of the Fifty-Sixth Category—Sciences derived from the Qur'ān: "Imām ash-Shāfi'ī ؓ said, 'All that the Imāms say is an explanation of the Sunnah, and all the Sunnah is an explanation of the Qur'ān.'"

Ash-Shāfi'ī also said: "There is no issue that can affect a person, for which the Book of Allāh does not provide guidance regarding it." It is an established fact that unearthing guidance regarding it [in the Book] can only occur by means of deduction (*istinbāt*), in which case what has been deduced is considered the same as that from which it has been deduced, as long as the process of deduction is clear and correct.

This statement is confirmed by Imām ash-Shāṭbi's example ؓ in *Al-Muwāfaqāt*²²³. He says: "What is expressed in the Sunnah is the intended meaning of the Book, so it is as if the Sunnah takes on the role of exegesis and explanation of the meanings of what is decreed in the Book. The evidence for this is His words:

﴿لَتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ﴾

...so that you may clearly explain to people what was revealed to them. . . (16:44).

Regarding the Words of the Most High:

﴿وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا﴾

And [as for] the male thief and the female thief, cut off their hands as a recompense for what they committed. . . (5:38).

When these Words of the Most High are expounded to show that the 'cutting off' (*al-qīṭā'*) is from the wrist, and that what was stolen must have been kept in a safe place, and must be above the prescribed value,

222 Vol. 4, p. 24.

223 Vol. 4, p. 10.

then that is the intended meaning of the verse (*āyah*), not that we say the Sunnah established these rulings without the Book.

Similarly, when Mālik or other exegetes (*mufasssīrūn*) explain to us the meaning of an *āyah* or a ḥadīth, and we act according to their exegesis, it is not correct for us to say: "We acted upon what such-and-such exegete said," rather than saying: "We acted upon the words of Allāh, or the words of His Messenger ﷺ."

In fact, the Shaykh of the jurists of his age, al-'Allāmah ash-Shaykh Muḥammad Bakhīṭ al-Muṭī'ī ﷺ generalised this principle, in his work *Aḥsan al-Kalām fīmā Yataʿallaqu bi's-Sunnah wa'l-Bid'ah min al-Aḥkām*²²⁴. He said, "All of these rulings taken from the four Proofs"—he means the Book, the Sunnah, Consensus and Analogy—"explicitly or by means of correctly formulated independent legal opinions (*ijtihād*), are the Decree and Law of Allāh, and the guidance of Muḥammad ﷺ, which Allāh commanded us to follow. This is because the opinion of every independent jurist (*mujtahid*)—when his source is one of the aforementioned four Proofs—is the Law of Allāh, for him and for all who follow him."

This is indicated, after a little contemplation, by the words of Sayyidunā 'Alī, may Allāh honour him, which al-Bukhārī narrated in various places in his *Ṣaḥīḥ*, the first of which is in the *Book of Knowledge*²²⁵, a chapter about the writing of knowledge. He narrates with a chain of transmission to Abū Juḥayfah ﷺ, who says: "I said to 'Alī, 'Do you have a book?' He said, 'No, except for the Book of Allāh, or the understanding given to a Muslim, or what is on these pages. . .'"

Ibn al-Munayyir ﷺ²²⁶ said: "By 'understanding' (*fahm*) he means gaining a deep understanding, deduction and interpretation". Al-Ḥāfiẓ said in *Al-Fath*—as previously cited: "The use of the word 'understanding' (*fahm*) is intended to establish the possibility of adding [i.e. by way of explanation] to what is in the Book. . . He does not mean, by 'understanding', something written."

Imām ash-Shāṭibī ﷺ²²⁷ said: "The muftī assumes the role of the Prophet ﷺ in the ummah. A number of matters prove this:

224 Pp. 6 and 23.

225 Vol. 1, p. 204.

226 Also in *At-Tarātib al-Idāriyyah*, Vol. 2, p. 258.

227 In *Al-Muwāfaqāt*, Vol. 4, p. 244–245.

First—The transmitted legal text, i.e. the ḥadīth: "The scholars ('*ulamā*') are the heirs of the prophets. . ."

Second—He is his ﷺ representative in conveying rulings. . .

Third—The muftī is a legislator in one respect, because what he conveys of the Sharī'ah is either cited from its original source, or derived from what is transmitted. In the first case he conveys, while in the second his role is to establish rulings on behalf of the Prophet ﷺ, and establishing rulings is the role of the legislator alone. So if the independent jurist is to establish rulings according to his own discernment and deduction, then he is in this respect a legislator whom it is obligatory to follow and to act according to what he says. This is the true Succession (*Khilāfah*).

In sum the muftī conveys from Allāh, as a prophet does. He acts as a signatory of the Sharī'ah to actions, according to his insight, as a prophet does; and he implements the command [of Allah] amongst the ummah by order of succession (*khilāfah*), as a prophet does. That is why they—i.e. muftis—are called 'authorities' (*ulū'l-amr*)."

May Allāh be pleased with the Sweet Basilicum of the Pious Predecessors (*Rayḥānat as-Salaf*), Imām 'Abd Allāh Ibn al-Mubārak, who drew attention to this point by saying: "Do not say, 'the opinion of Abū Ḥanīfah'; rather say, 'it is the explanation of the ḥadīth'."²²⁸

Ibn Ḥazm indicated this idea even more clearly²²⁹: "Everything that the independent jurists have derived is considered part of the Sharī'ah, even if its proof is unknown to the general populace. Whoever denies this, accuses the Imāms of error, and of legislating for that which Allāh has not given permission. This is a deviation from the Path by whoever says this."

This was cited by Mawlānā al-'Allāmah Shaykh Ṣafar Aḥmad al-'Uthmānī At-Tahānawī ﷺ²³⁰. He commented: "This is the statement of a Ṣāḥirī, who does not approve of analogy (*qiyās*). See his etiquette with the independent jurist Imāms, the guardians of Allāh over his Law! He (i.e. Ibn Ḥazm) may have said this after composing *Al-Muḥallā*. . ."²³¹

228 In the Appendix of *Al-Jawāhir al-Muḍīyyah*, by al-'Allāmah 'Alī al-Qārī ﷺ, Vol. 2, p. 460.

229 As in *Al-Mizān al-Kubrā*, by al-'Allāmah ash-Sha'rānī ﷺ, Vol. 1, p. 16.

230 In *Injā' al-Waṭan*, p. 53, which was recently published under the title: *Abū Ḥanīfah wa Aḥābiḥu al-Muḥaddithūn*, p. 61.

231 Nevertheless, this statement of Ibn Ḥazm's agrees completely with his style and orientation in his essay, *Risālah fi'l-Imāmah*, which was published this year by our Shaykh, al-'Allāmah Shaykh 'Abd al-Fattāḥ Abū Ghuddāh, may Allāh protect and guard him, along with *Risālat al-Uḥfah*

It is absolutely essential that the reader is alerted to the meaning of Ibn Ḥazm's statement ﷺ: "even if its proof is unknown to the general populace". He uses the phrase "the general populace" (*al-ʿawāmm*) in the sense of the terminology of the scholars of the principles of jurisprudence (*ʿulamāʾ al-uṣūl*), who apply the description 'member of the public' (*ʿāmi*) to anyone who is not an independent jurist. It does not mean what we use it to mean anyone who is not a student of knowledge (*ṭālib ʿilm*).

What Ibn Ḥazm means is that the fiqh of the jurist Imāms is considered part of the Sharīʿah and that our knowledge of the proof and being familiar with it is not a requirement. We may be unaware of the proofs due to their subtlety, which is beyond our comprehension; or because they have not reached us; or because we have not studied them. And Allāh knows best.

The fiqh of the jurists—Abū Ḥanīfah and others of the Imāms of Islām—in tens of thousands of juristic issues is no more than explanation of the Sunnah of the Prophet ﷺ. It is not extraneous to Islām, nor is it their subjective opinion, originating from the inventions of their intellects, and independent of any authentic legislative source.

When we say: 'the fiqh of Abū Ḥanīfah' or 'the fiqh of ash-Shāfiʿī', we mean to say: 'the understanding of Abū Ḥanīfah' and 'the understanding of ash-Shāfiʿī', and so on. . . What is this 'understanding of'? It is none other than their understanding of the Book of Allāh Almighty and the Sunnah of the Prophet ﷺ. This is because '*fiqh*', in the language of the Arabs, means 'understanding', as is well known.

Here we become aware of an abominable error which has become prevalent amongst the people, without it being noticed or drawn attention to. That is, the way some people present their own *understanding* (*fiqh*) and *knowledge* (*ʿilm*) to the people, calling it 'fiqh of the Sunnah' or 'fiqh of the Sunnah and the Book'.

Fiqh of the Sunnah and the Book means an understanding of them. This is what they are presenting; so whose understanding is it? It is the understanding of unknown Zayds and ʿUmars, yet they have elevated it and added it to 'the Sunnah and the Book', to delude people into believ-

Bayna al-Muslimīn, which he collated from the words of Ibn Taymiyah, both of which contain benefits with which the obstinate ought to acquaint themselves.

ing that they are presenting it from the original source of the religion (*dīn*). Then they have succeeded in distancing the people from the fiqh of Abū Ḥanīfah, ash-Shāfiʿī, Mālik and Aḥmad ﷺ, and are able to say to people: 'People, do you want the fiqh of Muḥammad ﷺ, or the fiqh of Abū Ḥanīfah and ash-Shāfiʿī?'

One of them used to lead his companions in prayer. Before beginning, he would turn to them and say: "Do you want me to pray with you the prayer of Muḥammad ﷺ, or the prayer of Abū Ḥanīfah?" See how daring and insolent he is!

It was not possible for them to make these statements, until they had ascribed their fiqh to the Book and the Sunnah; and the fiqh of Abū Ḥanīfah to Abū Ḥanīfah—not to the Book and the Sunnah; and the fiqh of ash-Shāfiʿī to ash-Shāfiʿī—not to the Book and the Sunnah. Thus they mutilated the great corpus of Islamic thought, which is really and truly an accurate commentary on the Book and the Sunnah. They have amputated it from the Book and the Sunnah, and brought to the people the understanding that: what is [in reality] authentic thereof is from the crumbs of their tables [i.e. from the great Imāms themselves]; while that which is [in reality] erroneous is from themselves, ascribing it all to the Book and the Sunnah.

As for those who are fooled by them, their delusion is due only to their complete lack of knowledge of the fiqh of those Imāms who are recognised as Imāms due to their religious conviction (*dīn*), devoutness (*taqwā*), piety (*waraʾ*), learning (*ʿilm*), understanding (*fahm*) and deductive capacity (*quwwat al-istinbāʾ*). This is despite the proliferation of the Sunnah in their time, in terms of knowledge, narrations, endurance, learning, commentary, information and apprehension.

The vibrant learning environment that surrounded them, composed of every field of Islamic learning, has been lost today in the current state of our later generations, to the extent that you see someone who claims the status of independent legal reasoning (*ijtihād*)—out of insolence and pretentiousness—and yet the Arabic which he uses to write for the people in his beautifully arranged and embellished style is not even accurate. He is unaware of the abominable wrong he commits against the Essence (*Dhāt*) of Allāh Almighty. Thus he says, in order to demonstrate his learning and his commitment to the canonical law (*ash-sharʿ*): "Protection is for

Allāh!!" (*Wa'l-ṣmah lillāh!*) (sic) Who is it that protects Allāh Almighty? From whom is He protected? Is there a text from Qur'ān or ḥadīth which supports this statement? If he does not know the meaning of it, this is a disaster; and if he does know its meaning and still says it, then he deserves nothing more than to be newly introduced to the religion before he claims to renew the religion!

Before closing my discussion of the second reason for differences amongst the Imāms, it is necessary to highlight an exception to what I have just said: That fiqh which is derived from the Book and the Sunnah, and from consensus (*ijmā'*) and authentic analogy (*qiyās*), is part of the religion and should not be separated from the sources from which it is derived.

However, it is necessary to exclude from this what Imām al-Awzā'i called, "the scholars' mishaps" (*nawādir al'ulamā'*).

Al-Bayhaqī ascribed to him in his *Sunan al-Kubrā*²³² that he said: "Whoever follows the scholars' mishaps has deviated from Islām!"

Ibn 'Abd al-Barr²³³ ascribed to the distinguished and pious authority, Sulaymān at-Taymī, that he said: "If you followed the concession granted by every scholar, all of evil would assemble in you!" Ibn 'Abd al-Barr commented: "There is consensus on this, to which I am aware of no contradiction."

In *Sharḥ 'Ilal at-Tirmidhī* by Ibn Rajab²³⁴, the following is cited from Ibrāhīm ibn Abī 'Ablah, one of the Shaykhs of Imām Mālik: "Whoever holds the peculiar opinions of the scholars, he holds much evil"; while Mu'āwiyah ibn Qurrah said: "Beware of knowledge that is peculiar."

Al-'Allāmah al-Kawtharī رحمته, in his commentary on *Dhuyūl Tadhkirat al-Huffāz*²³⁵, cited Ibn Abī 'Ablah's statement with the wording: "Whoever follows the peculiar opinions of the scholars has gone astray."

Al-Bayhaqī narrated in his *Sunan*²³⁶ from the Imām of the Shāfi'is in Iraq, Abū'l-'Abbās ibn Surayj, from the Imām of the Mālikīs in Iraq,

²³² Vol. 211, p. 10. Adh-Dhahabī also mentioned it in *As-Siyar*, Vol. 7, p. 125, and *At-Tadhkirat*, Vol. 1, p. 180.

²³³ In *Jāmi' Bayān al-'Ilm*, Vol. 2, pp. 90, 91; also in *As-Siyar*, Vol. 6, p. 198, and *At-Tadhkirat*, Vol. 1, p. 151.

²³⁴ Vol. 1, p. 410.

²³⁵ P. 187.

²³⁶ Vol. 10, p. 211.

al-Qāḍī Ismā'īl ibn Ishāq رحمته that he said: "I entered upon [the Caliph] al-Mu'taḍid, who handed me a book. I perused it [and found] compiled therein all the concessions resulting from the scholars' mistakes, and what each one had justified for himself. I said, 'Commander of the Faithful (*Amīr al-Mu'minīn*), whoever compiled this book is an unbeliever (*zindiq*)!' He [al-Mu'taḍid] said, 'Are these ḥadīths not authentic?' I replied, 'The ḥadīths are as they were narrated. However, whoever permitted intoxicants [meaning *nabīdh* i.e. fermented grape or date juice] did not permit temporary marriage [*nikāḥ al-mu'ah*], and whoever permitted temporary marriage did not permit music and intoxicants. Every scholar makes a mistake. Whoever compiles the mistakes of the scholars and follows them [collectively], his faith has departed!' So Al-Mu'taḍid gave the order and the book was burnt."

Imām Aḥmad رحمته, in his book, *Al-'Ilal*²³⁷, related from Muḥammad ibn al-Imām Yaḥyā al-Qaṭṭān, who said: "If a person were to follow all the concessions that are in the ḥadīth, he would be a sinner (*fāsiq*)."

In *Al-Musawwadah*²³⁸, Shaykh Ibn Taymīyah Taqī ad-Dīn رحمته said: "Abd Allāh ibn Aḥmad narrated from his father: 'I heard Yaḥyā al-Qaṭṭān say, 'If a man were to act upon every concession, what the people of al-Madīnah say about listening to music; what the people of Kufa say about *nabīdh*; and what the people of Makkah say about temporary marriage, then he would be a sinner.' To whom are these words directed? To Yaḥyā al-Qaṭṭān, or to his son, Muḥammad? I believe that they are to Yaḥyā."

Al-Ḥāfiẓ [ibn Ḥajar] said, in *At-Talkhīṣ al-Ḥabīr*²³⁹: "Abd ar-Razzāq narrated from Ma'mar: 'If a man were to follow what the people of al-Madīnah say about listening to music, and about approaching women from behind; and what the people of Makkah say about temporary marriage, and about *ṣarf* transactions [i.e. exchanging gold and/or silver for gold and/or silver]; and what the people of Kufa say about intoxicants, then he would be the worst of Allāh's servants.'"

Imām al-Ḥākim said, in *Mārifat 'Ulūm al-Ḥadīth*²⁴⁰, from Imām al-Awzā'i: "There are five things said by the people of Iraq which should be

²³⁷ Vol. 1, p. 219, the narration of his son, 'Abd Allāh.

²³⁸ P. 518.

²³⁹ Vol. 3, p. 187.

²⁴⁰ P. 65; and through him by his student, al-Bayhaqī in *As-Sunan*, Vol. 10, p. 211; adh-Dhahabī

avoided—or discarded—and five things from the people of the Hejaz. . . . He proceeded to mention them.

Abū Bakr al-Ājurī said in *Tahrīm an-Nard wa'sh-Shaṭranj wa'l-Malāḥī*²⁴¹: “If someone argues in support of a dispensation for playing chess, saying, ‘People attributed with knowledge used to play it’, the response to him is: ‘This [argument] is the opinion of someone who follows his desires and discards knowledge. If some of those who have been attributed with knowledge slip up, then it is necessary not to follow them in their mistakes. We have been forbidden from doing so. It is feared that we will follow the mistakes of the scholars.’”

He then related with his chain of transmission to ‘Umar ibn al-Khaṭṭāb, that he said: “Three things that mislead people are: leaders who have gone astray; a hypocrite (*munāfiq*) arguing with the Qur’ān; and the mistake (*zallāh*) of a scholar.”

In fact, Abū’l Ḥusayn al-Karābīsī, Imām of discursive theology (*ilm al-kalām*), ḥadīth and fiqh, having related some peculiar opinions of some of the pious early generations (*Salaf*), said: “If someone says, ‘These are people of knowledge!’ He is told: ‘The thing which damages Islām is the mistake of a scholar. It is not damaged by the mistake of a thousand ignorant people.’”²⁴²

[In this] he has spoken truly and honestly, by Allāh. However, this is only the case if this mistake is maintained out of ignorance and foolishness, until it is considered the truth, and everything else is considered error and falsehood! However, if it is buried by neglect or refutation, then this is not the case.

Ibn ‘Abd al-Barr said in *Al-Jāmi‘*²⁴³: “The wise have compared the mistake of a scholar to the breaking up of a boat, because if it sinks, many people sink with it.”

Al-Ḥāfiẓ ibn Rajab al-Ḥanbalī ʔ said in *Jāmi‘ al-‘Ulūm wa’l-Ḥikam*²⁴⁴: “One kind of sincerity towards Allāh Most High, His Book and His

also quoted it from al-Ḥākim in *As-Siyar*, Vol. 7, p. 131; and also al-Ḥāfiẓ in *At-Talkhīṣ*. There is a certain amount of difference in their wording, some of which is important.

²⁴¹ P. 170.

²⁴² *Tabaqāt ash-Shāfi‘iyyah al-Kubrā*, as-Subkī, Vol. 2, p. 125.

²⁴³ Vol. 2, p. 111; al-Khaṭīb ascribed this analogy to ‘Abd Allāh ibn al-Mu‘tazz in *Al-Faḥḥ wa’l-Mutaḥḥiqh*, Vol. 2, p. 14.

²⁴⁴ P. 70, on the explanation of the ḥadīth: “Religion is sincerity” (*Ad-dīn an-naṣīḥah*).

Messenger—which is specific to the scholars—is correcting views based on personal whims by means of the Book and the Sunnah, and demonstrating the proofs therein [i.e. the Book and the Sunnah] against all false views. Another is refuting weak opinions which arise from errors made by the scholars, and demonstrating the evidence of the Book and the Sunnah for this refutation.”

If you say: ‘What is the sign that this opinion is an error and a lapse?’

I will tell you that Ya‘qūb ibn Sufyān al-Fasawī narrated in his *Tārikh*—and from him al-Bayhaqī in *As-Sunan al-Kubrā* and his *Al-Madkhal*²⁴⁵—a report from Mu‘ādh ibn Jabal ʔ, which is one of the most truthful and wisest of statements.

Yazid ibn ‘Amīrah, one of the leaders from the Followers (*Tābi‘ūn*), and a close companion of Mu‘ādh, said that Mu‘ādh would say on sitting down to a gathering of *dhikr*, ‘Allāh is a fair judge’. One day, he said during a gathering in which he was sitting, ‘Soon there will appear trials in which money will abound and the Qur’ān will be cited until it will be picked up by the believer and the hypocrite, the freeman and the slave, the man and the woman, the old and the young, so that it will be said: ‘What is wrong with people that they do not follow me when I have recited the Qur’ān? By Allāh, they will not follow me unless I introduce some new innovation.’

Avoid such people and what they have innovated, for all innovation is deviation, and beware of the deviation of the wise. Satan (*Shayṭān*) may speak words of error with the tongue of a wise man, and a hypocrite may speak words of truth.”

He [Yazid ibn ‘Amīrah] said: “I said to him, ‘How will I know—may Allāh have mercy on you—when a wise man speaks words of error and when a hypocrite speaks words of truth?’

He [Mu‘ādh] said: “Avoid anything the wise man says that is doubtful (*mushtabihāt*) and to which you say, ‘What is this?’ However, certainly do

²⁴⁵ Ya‘qūb’s *Tārikh*, Vol. 2, p. 321; *As-Sunan al-Kubrā*, Vol. 10, p. 210; *Al-Madkhal*, p. 444. The report is also in *Al-Mustadrak*, Vol. 4, p. 460; [al-Ḥākim] authenticated it according to the conditions of [Ṣaḥīḥ al-Bukhārī and Ṣaḥīḥ Muslim], and adh-Dhahabī concurred. It is also in *Jāmi‘ Bayān al-‘Ilm*, Vol. 2, p. 111. See also an example of the wise man’s error in *Musnad ash-Shāfi‘iyyīn*, Vol. 2, p. 333, (1443), and a similar example in Ya‘qūb ibn Sufyān’s *Tārikh* Vol. 2, p. 322.

not avoid him on this account, since he may review what he has said and accept the truth if he hears it, for the truth is evident.”

Al-Bayhaqī said: “Mu‘adh ibn Jabal advised that the error of a wise man does not require that he be avoided, but anything he says that is not evident should be discarded, for the truth is evident. This means—and Allāh knows best—evidence from the Book, the Sunnah, consensus (*ijmā‘*) or analogy (*qiyās*) are required as proof of its validity.”

He warned of a heretical group who innovate principles which are entirely alien to Islām. He also identified a righteous group among whom there is belief and wisdom, and who nevertheless produce errors and lapses. A meticulous person should not conflate these two groups; rather, he should adhere to this [latter] group in terms of whatever guidance and virtue they possess and avoid anything they say which is unusually peculiar or [the result of] a lapse.

He also indicated to us the sign of this group’s error; that it is unclear and uncertain, and does not possess the manifest purity of truth. He called such matters ‘doubtful matters’ (*mushtabihāt*) i.e. everything which you naturally reject as not being from the manifest unadulterated truth and saying, ‘What is this?’²⁴⁶

The unadulterated truth, on the other hand, is evident and supported by proofs. And Allāh knows best.

Imām Ibn al-Qayyim makes a valuable remark on this topic in *I‘lām al-Muwaqqi‘īn*²⁴⁷, in which he discusses the necessity of avoiding errors made by the scholars. I will quote the beginning of it, in which he demonstrates the consistency between adhering to the path of the Imāms and avoiding those of their opinions which are not to be followed. He said: “Two matters are essential, one of which is greater than the other. That is sincerity to Allāh and his Messenger ﷺ, to His Book and His religion, protecting it from false statements which contradict the guidance and clear proofs with which Allāh sent His Messenger. . .

The second matter is knowing the superiority of the Imāms of Islām, their measure, their rights, their stations, and that their superiority, their

²⁴⁶ This is indicated by the narration of Ibn ‘Abd al-Barr in his *Jāmi‘*, Vol. 2, p. 111: “They said: ‘What is the nature of a wise man’s error?’ He replied: ‘It is a statement which you find surprising, and which you reject, saying: ‘What is this?’”

²⁴⁷ Vol. 3, p. 294, and what follows.

knowledge and their sincerity to Allāh and his Messenger does not make it obligatory to accept everything they have said. When they have ruled on matters in which what the Messenger ﷺ brought was hidden from them, they have done so on the basis of their knowledge, whereas the truth was otherwise; it is not necessary to discard all their opinions, nor to diminish their rank or slander them. Both these extremes have deviated from the purpose and the middle path is in between the two; we do not consider them as sinners, neither do we consider them infallible. Rather, we follow the very course which they tread with regard to the Companions (*Ṣaḥābah*) who came before them. . . There is no contradiction between these two matters for someone whose heart Allāh has opened to Islām. They are only contradictory for two types of men; someone who is ignorant of the measure and superiority of the Imāms, or someone who is ignorant of the reality of the Sharī‘ah with which Allāh sent his Messenger. Anyone who has knowledge of the Law and of reality knows for certain that an honourable man, whose part in Islām has been virtuous, and who has left a good legacy, and who has been afforded a position within Islām and its people, may have lapses and make mistakes for which he is excused, even rewarded, due to his independent reasoning (*ijtihād*). It is not permissible to follow him in them, nor [is it permissible] that his position, leadership and standing in Muslim hearts be invalidated”. . . and so on, to the end of his valuable remark.

I have discussed this point at length in order to uncover the fault of those who patch up their own circumstance and the circumstance of other people and their behaviour, using unorthodox opinions and weak teachings, or opinions which are limited to those who hold them, in contradiction to the body of leading scholars from the era of the Companions and those who have succeeded them over the centuries.

Fearing that these deviants who patch up this world (*dunyā*) with religion would argue that the subjective opinions of our scholars are derived from the Book and the Sunnah, and that they hold the same position and consideration, I have demonstrated in depth that uncommon opinions and mistakes which some of them have produced, have been discarded. It is not permissible to seek or put these into practice. Allāh is the Guide to the Truth, by His permission. We ask Allāh to lead us on the Right Path and protect our words and our actions from error.

THE THIRD REASON

The differing methods of the Imāms in dealing with
apparently contradictory aspects of the Sunnah

This is considered one of the most important reasons for differences of opinion among the jurist Imāms. In discussing it there is scope for drawing on two great sciences: the science of ḥadīth (*‘ilm al-ḥadīth*), and the science of the principles of jurisprudence (*‘ilm uṣūl al-fiqh*).

With respect to the science of ḥadīth, this involves studying all the ḥadīths relevant to one particular issue, and all non-Prophetic ḥadīths (*āthār*—i.e. statements of the Companions, Followers etc.) which are connected with the issue, whether closely or remotely.

With respect to the science of the principles of jurisprudence, it involves drawing on its established precepts and rules in the light of other texts from the Book of Allāh and the Sunnah.

Another factor in this Reason for differences of opinion amongst the Imāms is the role—which is very great—played by precise understanding, wise discernment, and the reconciliation of apparently contradictory texts. This will be seen in what follows.

It is obvious even to a novice in the noble religious sciences that there often exist for a single issue ḥadīths which have varying significance for the ruling. The differences between them may even produce more than two distinct meanings.

The scholars (*‘ulamā’*) have a number of methods for dealing with these differences:

- 1 The method of combining (*jam'*) two apparently contradictory ḥadīths, interpreting them and reconciling their meanings.
- 2 If combining them is not possible, their method is to establish the case for abrogation (*naskh*) i.e. abrogation of one ḥadīth by the other.
- 3 If this is not possible—there being no signs and indications (*qarā'in*) to support it—their method is to establish preference (*tarjīh*) i.e. preferring one ḥadīth over the other.

Some scholars place the third method before the second: combining; preference; then abrogation. Discussion of these methods is extremely lengthy, but I will be content with the following:

1. With respect to combining (*jam'*) two apparently contradictory ḥadīths, understanding plays the greatest part here. Some scholars may claim that it is impossible to combine two particular ḥadīths, due to their inability to comprehend them, while Allāh Most High opens a way for other persons of knowledge (*ahl al-ilm*) to combine them. Scholars therefore insist upon the necessity of cautiousness and patience before claiming that two apparently contradictory ḥadīths are impossible to combine.

2. If combining them proves difficult, the Imām proceeds to examine them in order to claim the existence of abrogation between them. This can only happen with the support of signs and indications (*qarā'in*) which support it²⁴⁸. These signs and indications are what can be called 'determiners of abrogation' (*mu'arrifāt an-naskh*), of which there are four:

The first sign is that which is known as a result of explicit mention by the Messenger of Allāh ﷺ, such as the ḥadīth narrated by Muslim: "I [previously] forbade you from visiting graves. [Now] visit them."

The second sign is that which is known through an opinion advocated by a Companion (*Ṣaḥābī*), such as the ḥadīth narrated by Abū Dāwūd, an-Nasā'ī and others from Jābir ibn 'Abdillāh, may Allāh be pleased with them both: that the last of the two matters of the Messenger of Allāh

²⁴⁸ For this reason, al-'Allāmah al-Bannūrī رحمه الله, in *Mā'ārif as-Sunan*, (Vol. 1, p. 103), drew attention to an important consideration in this discussion, saying: "The intended meaning of 'abrogation' (*naskh*) is: abrogation based on independent legal reasoning (*ijtihād*); whereas, when the timing is [decisively] known, this takes precedent over everything according to everyone."

which concern performing ablution after consuming food cooked over fire, was to discard performing it.

The third sign is that which history shows to have been abrogated, such as the ḥadīth narrated by Shaddād ibn Aws: "Both the person who performs cupping, and the person upon whom it is performed, have broken their fast." Some narrations state that this was in the eighth year of the Hijrah, and was abrogated by the ḥadīth narrated by Ibn 'Abbās: "The Prophet ﷺ had cupping performed on him while he was in a state of ritual consecration for Pilgrimage (*Iḥrām*) and fasting (*ṣā'im*)."

Some narrations state that this was during the Farewell Pilgrimage, in the tenth year of the Hijrah.

Abrogation may be identified by the signs which indicate it. For example, that the Companion who narrated the ḥadīth entered Islām late and states explicitly that he heard the ḥadīth. This will abrogate a ḥadīth narrated by another Companion, who entered Islām before that, and had heard the ḥadīth from the Prophet ﷺ at the time when he entered Islām.

Other subtle accompanying details must also be considered, examined and studied thoroughly and closely.

The fourth sign is that which is known to be abrogated because the consensus (*ijmā'*) is firmly established on something contradicting it.

Here, a concerted effort is required to confirm that the consensus is firm and that nothing exists which contradicts it—according to the necessary conditions.

3. If it is not possible to claim the existence of abrogation, the Imām proceeds to investigate preference (*tarjīh*) of one ḥadīth over the other.

The matter of establishing preference between two ḥadīths is extremely difficult and exacting, since the first stage—combining them—demands only understanding; while the second stage—claiming the existence of abrogation—demands knowledge of the various narrations. As for establishing preference, this demands understanding and knowledge. Understanding (*dirāyah*) requires keen understanding and perspicacity, while knowledge of the narrations (*riwāyah*) requires studying all the major and minor aspects of the ḥadīths connected with a particular issue: their chains of transmission (*asānīd*) [what could be more exacting than examining chains of transmission!]; the Companions who narrated them—their biographies and descriptions; their wording. . . and the like.

When I wrote this sentence in the First Edition: 'studying all the major and minor aspects of the ḥadīths connected with a particular issue', I had in mind an example which I will now relate.

It is known that the general body of scholars (*jumhūr*) act upon the ḥadīth narrated by Abū Hurayrah رضي الله عنه from the Prophet ﷺ: "If a dog licks the dish of one of you, he must wash it seven times."

The Ḥanafis take the position that it is enough to wash it three times, which is the opinion stated by Abū Hurayrah and which he himself practised. This is according to their principle of refraining from acting upon a ḥadīth if the Companion who narrated it acts contrary to it.

Al-ʿAllāmah al-Muḥaqqiq al-Kawtharī رحمته الله²⁴⁹ said: "Doing it seven times (*tasbīʿ*)—i.e. washing the dish seven times has been abrogated—not [the command of] doing it three times (*tathlīth*)—due to [the Prophet's] ﷺ proceeding gradually from severity to leniency in the matter of dogs; not the opposite. [Initially,] he ordered their killing in general, to uproot the people's practice of keeping them as companions; subsequently, he ordered the killing of those that are jet black, in particular; then he sanctioned dogs for hunting, walking, agriculture and the like. As such, washing the dish seven times is appropriate to the period of severity, while washing it three times is appropriate to the period of leniency, and is the later of the two commands."

You [now] see that the issue is not restricted to the 'seven times' ḥadīth and the narration: "and rub it [i.e. the dish] with earth the eighth time". Nor is it limited to the opinion (*fatwā*) and action of Abū Hurayrah. Rather it goes beyond that to include every ruling connected with this animal, in order thereby to determine the sense intended by the Legislator.

Moreover, the scholars of the principles of jurisprudence (*ʿulamāʾ al-uṣūl*) have expended much effort to establish the modes of preference (*wujūh at-tarjīḥ*) between two apparently contradictory ḥadīths, and discussed them in their books. The earliest of these was Imām ash-Shāfiʿī, in *Ar-Risālah*²⁵⁰, who said, addressing his counterpart: "The principle which we and you build upon is that when ḥadīths differ, we do not prefer one over another without a pretext proving that the one we have preferred

²⁴⁹ *An-Nukat Aṭ-Ṭarīfah*, p. 119.

²⁵⁰ P. 284.

is stronger than the one we have discarded." His counterpart asked: "And what is this pretext?" Ash-Shāfiʿī replied: "That one of the two ḥadīths more closely resembles the Book of Allāh; for if it resembles the Book of Allāh, then it contains the authoritative evidence. . . If there exists no wording of the Book of Allāh regarding it, then the more appropriate for us to prefer is the one which is more established. That means that its narrator is more knowledgeable of its chain of transmission (*isnād*), more renowned in terms of knowledge, and has preserved it better. Alternatively, that the ḥadīth which we prefer is narrated from two or more sources, while the one that we discard is narrated from one. In this case, [we consider] that which is narrated from more sources to be better preserved than that which is narrated from fewer. Or, that the ḥadīth which we prefer is closer in meaning to the Book of Allāh, or to the *sunan* of the Messenger of Allāh; or more appropriate according to the people of knowledge (*ahl al-ʿilm*); or more correct by analogy; and that it is the position of more of the Companions of the Messenger of Allāh."

Furthermore, Imām al-Ḥāzimī discussed this in the Introduction to his book, *Al-Iʿtibār fī'n-Nāsikh wa'l-Mansūkh min al-Āthār*. He mentioned fifty modes of preference, most of which he provided examples for. At the end of his discussion, he said: "We have refrained from mentioning many [other] modes of preference²⁵¹, in order to avoid prolonging this concise discussion."

Al-Ḥāfiẓ al-ʿIrāqī رحمته الله later quoted these remarks²⁵² of his, saying: "The number of modes of preference exceeds one hundred. I consider this count to be an underestimate, since I would start with the fifty which al-Ḥāzimī counted, then count the rest in succession." [In this way] he numbered them one hundred and ten. He added²⁵³: "There are many other modes of preference, some of which are problematic—i.e. some of which are also accepted. Some of those which have been mentioned are also problematic."

Ash-Shawkānī, in *Irshād al-Fuḥūl*²⁵⁴, categorised the modes of preference into twelve main types, the total number of which was one

²⁵¹ Pp. 9–23.

²⁵² *Hāshiyat [al-Ḥāfiẓ al-ʿIrāqī] ʿalā Ibn aṣ-Ṣalāh*, p. 245.

²⁵³ End of p. 250.

²⁵⁴ Pp. 276–284.

hundred and twenty. He stated at the end of his discussion of each category that there were many more types, other than those which he had mentioned.

From this, we discern the ignorance of some people—or their deliberate disregard—who, when confronted with two apparently contradictory ḥadīths, hasten to prefer the one which is narrated in the *Ṣaḥīḥayn* (i.e. *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*) over the one which is not narrated therein, without giving consideration to any other of these modes of preference. This is despite the fact that when Al-Ḥāfiẓ al-‘Irāqī listed these modes of preference, he gave the one hundred and second mode in his list of one hundred and ten as being: that the ḥadīth being narrated in the *Ṣaḥīḥayn* gives it preference over another ḥadīth that is not narrated therein.

These people have thus discarded one hundred and one of the total modes of preference, either out of heedlessness, or deliberate negligence—even the sweetest of which is bitter!

When listing the modes of preference which relate to the chain of transmission, ash-Shawkānī numbered them forty two, considering the forty first of these to be: “preferring ḥadīths which are in the *Ṣaḥīḥayn* over those which are elsewhere.”

Do not let the muddlers (*mushawwishūn*) patronise you with their words: ‘Ibn aṣ-Ṣalāḥ considered the ḥadīth which is agreed upon (*muttafaq ‘alayhi*) [by al-Bukhārī and Muslim] as the most rigorously authenticated (*aṣaḥḥ*) of ḥadīths, in preference to that which is only narrated by al-Bukhārī; while that which is only narrated by al-Bukhārī, he considered preferable over that which is only reported by Muslim’. . . and so on.

Al-Ḥāfiẓ al-‘Irāqī, who considered that which was narrated by the two Shaykhs (i.e. al-Bukhārī and Muslim) as ranking late [amongst the modes of preference], considered this in his book, which he based on the book of Ibn aṣ-Ṣalāḥ. Therefore what Ibn aṣ-Ṣalāḥ said, and his ordering, was right in front of him. So it cannot be said: ‘He was unaware of it; it escaped his attention’! No, the reality is that [these rankings are worlds apart]—the former [i.e. Ibn as-Salāḥ’s ordering] is the result of tackling the issue from a single angle, while the words of al-‘Irāqī and the scholars of the principles of jurisprudence (*al-uṣūliyyūn*) are the result of looking at it comprehensively.

Discussion of this aspect can take place elsewhere, if Allāh Most High wills and facilitates it.

In fact, the Imām, author of the *Ṣaḥīḥ* himself (i.e. al-Bukhārī), conveys to us the way in which he presents the ḥadīths in a particular chapter (*bāb*), in that he discards this ḥadīth, which he has reported in his *Ṣaḥīḥ*, and acts upon this one. Muslim does the same. In his *Ṣaḥīḥ* he first reports the ḥadīths which stipulate standing for the funeral prayer (*al-qiyaṃ li’l-janāzah*)²⁵⁵, and then follows them with the ḥadīths which he considers to abrogate them²⁵⁶. Imām al-Qurṭubī, the exegete (*mufasssīr*), wrote in his *Tafsīr*²⁵⁷ that Muslim closes the chapter with the ḥadīth which he chooses to follow.

[Here] our opponent also agrees with us that we are bound only to accept Muslim’s classification of the ḥadīth as rigorously authenticated, not his understanding of the ḥadīth and choice [of which of them to act upon].

Al-Bukhārī, on the other hand, only reports the ḥadīths of standing for the funeral prayer, and does not digress onto anything which indicates that it has been abrogated.

There is also another word of warning, which I will quote from what al-‘Allāmah al-Bannūrī said in *Ma‘ārif as-Sunan*²⁵⁸. He said: “I have said in the past and I say now. These great Imāms, authors of the rigorously authenticated (*ṣaḥīḥ*) ḥadīth collections—al-Bukhārī, Muslim and others—have [all] leant in a certain direction, whether it be in terms of understanding (*tafaqquh*) and practising independent legal reasoning (*ijtihād*) themselves, or following their Imāms in the intricacies of fiqh, *ijtihād*, and in obscure issues. They all took a side in matters in which there are differences of opinion (*khilāfiyāt*). Then, when they composed their works, they reported in them that which is consistent with their position in terms of fiqh, hence their fiqh infiltrated the field of ḥadīth²⁵⁹.

²⁵⁵ Vol. 2, p. 359, (73–81).

²⁵⁶ Vol. 2, p. 661, (82–84). This is one of the many examples referred to by al-Ḥākim in his remark which was quoted as notes on p. 79.

²⁵⁷ Vol. 3, p. 212. Not as he (the indexer) understood it, since he added to Imām Muslim’s *Al-Ṭabaqāt*, Vol. 1, p. 117: that Muslim would close the chapter with his chosen wording.

²⁵⁸ Vol. 6, pp. 379–380.

²⁵⁹ This statement is from the golden words of wisdom spoken by Imām of the age, Muḥammad Anwar al-Kashmīrī. See them in the notes on *Naṣḥ ar-Rāyah*, Vol. 2, p. 17.

They discarded everything else, since it was not consistent with their position, apart from those who adhered to reporting both categories of ḥadīth, such as Imām at-Tirmidhī—usually; Ibn Abī Shaybah and ‘Abd ar-Razzāq, in their collections; and Aḥmad, in his *Musnad*. . .” This is the end of the remark.

One example of their fiqh infiltrating their ḥadīth is the example cited a few lines previously regarding standing for the funeral prayer (*al-qiyaṃ li’l-janāzah*) or not doing so. Imām Muslim narrated ḥadīths stipulating standing for it; he then narrated ḥadīths which abrogate standing. An-Nasā’ī²⁶⁰ did likewise. Imām al-Bukhārī, on the other hand, only narrated the ḥadīths of standing for it. This is because those ḥadīths from which Muslim inferred abrogation of standing for the funeral prayer, were not indicative of its abrogation to al-Bukhārī. He therefore refrained from reporting them. Thus, Muslim and an-Nasā’ī reported what they understood to be legally correct, while al-Bukhārī refrained from reporting what he did not view as correct.

In this way, their fiqh infiltrated their ḥadīth.

Another example of their fiqh infiltrating their ḥadīth, is the ḥadīth of Abū Hurayrah: “Whoever offers the funeral prayer in the mosque has gained no benefit”. We have mentioned previously²⁶¹ that it has been reported from many sources, yet Muslim did not report it. He reported the ḥadīth of ‘Ā’ishah ²⁶²: “How quickly the people forget! The Messenger of Allāh ²⁶³ offered the [funeral] prayer upon Suhayl ibn al-Bayḍā’ only in the mosque.” An-Nasā’ī²⁶³ did the same.

This is their choice of ḥadīths and their position in terms of fiqh. Abū Dāwūd, on the other hand, reported this ḥadīth of ‘Ā’ishah’s first, and concluded the chapter with the ḥadīth of Abū Hurayrah²⁶⁴. As such, this, too, is his choice of ḥadīths and his position in terms of fiqh.

Ibn Mājah²⁶⁵ reversed the order, he reported the ḥadīth of Abū Hurayrah first. Secondly, and lastly, he reported the ḥadīth of ‘Ā’ishah,

260 *Al-Kubrā*, Vol. 1, pp. 625–627.

261 P. 58–60.

262 Vol. 2, p. 668, (99).

263 *Al-Kubrā*, Vol. 1, p. 639.

264 Vol. 3, pp. 530–531, (3189–3191).

265 Vol. 1, p. 486, (1517–1518).

saying: “The ḥadīth of ‘Ā’ishah is stronger.” This, then, is his choice of ḥadīths and his position in terms of fiqh.

In this case, following them (*taqlīd*) and adhering (*ittibā’*) to their fiqh is not more correct than adhering to or following the fiqh of the jurist Imāms (*al-a’immat al-fuqahā’*)—Abū Ḥanīfah, Mālik, ash-Shāfi’i and Aḥmad. Rather, following the latter is more correct than following the former. We have previously cited the statement of Imām at-Tirmidhī: “The jurists (*fuqahā’*) are more knowledgeable of the meanings of ḥadīth.” This is clear and quite evident.

Equally, giving preference to a ruling, the evidence for which is a ḥadīth narrated by al-Bukhārī, over a ruling, the evidence for which is another ḥadīth narrated by Abū Dāwūd, for example, is an incorrect preference. In reality, it is giving preference to the position (*madhhab*) of al-Bukhārī, who selected and narrated one ḥadīth from the ḥadīths relevant to the issue, over the position of the other Imām, who chose another ḥadīth in response to the same issue! This is not what is intended by those who aim to confuse (*mushawwishūn*).

In this fertile ground for differences of opinion among the Imāms in their fiqh, we can appreciate the difficulty of practising independent reasoning on a single legal ruling. It is also possible for us to appreciate the elevated level of learning which our Imāms ²⁶⁶ reached. This, bearing in mind that what I have mentioned merely represents broad outlines and basic principles within the dimension [of *ijtihad*] which I am discussing, to say nothing of the other dimensions of learning in which an independent jurist (*mujtahid*) is qualified. How many they are! We will discuss them, Allāh willing²⁶⁶.

In concluding my discussion of this Third Reason for differences of opinion among the Imāms, I will cite a passage relating to a small matter, about which difference of opinion is not well known, and about which the scholars have not written treatises dedicated to it, as they have with other matters of religious knowledge, such as the bismillah constituting a verse (*āyah*) at the beginning of every chapter (*sūrah*) of the Qur’ān—except Sūrah Barā’ah; the follower (*muqtadī*) reading behind the Imām; and raising the hands before bowing in prayer (*rukū’*) and rising from it. . .

266 P. 189.

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I have only chosen it because it brings together the three methods which have been discussed, within one issue.

Imām an-Nawawī²⁶⁷ said: "Our—i.e. the Shāfi'ī—position is that we deem it recommendable (*istiḥbāb*) for the man and the woman to dye grey hair yellow or red, and it is forbidden (*yaḥrumu*) to dye it black according to the more correct position [in the *madhhab*]. It has been said that dying it black is somewhat disliked (*karāhat at-tanzīh*) but the preferred position is that it is prohibitively disliked (*[karāhat] at-taḥrīm*), based on what the Prophet ﷺ said in the explained ḥadīth: "Abstain from using black dye". This is our position.

Al-Qāḍī 'Iyāḍ said: 'The first generations (*Salaf*) of Companions (*Ṣaḥābah*) and Followers (*Tābi'ūn*) had differences of opinion about dying (*khiḍāb*) and its types. Some of them said: 'It is better to refrain from dying [grey hair] altogether.' In support of this they narrated a ḥadīth from the Prophet ﷺ on the prohibition of dying grey hair, because he ﷺ did not dye his hair. This was narrated from 'Umar, 'Alī, Ubayy and others.

Others said: 'It is better to dye [grey hair],' and that a group of the Companions, Followers and those who came after them dyed their hair, based on the ḥadīths that Muslim and others mentioned.

These, too, had differences of opinion. The majority of them would use yellow dye; among them, Ibn 'Umar, Abū Hurayrah and others, which is also reported from 'Alī.

A group of them dyed their hair using henna and katm, and some of them used saffron.

A group of them used black dye. This is reported from 'Uthmān; al-Ḥasan and al-Ḥusayn, the sons of 'Alī; 'Uqbah ibn 'Āmir; Ibn Sirīn; Abū Burdah; and others.'

According to al-Qāḍī 'Iyāḍ, at-Ṭabarānī²⁶⁸ said: 'The correct position is that the reports narrated from the Prophet ﷺ stipulating the dying of grey hair, and those prohibiting it are all rigorously authenticated, and there is no contradiction between them. Rather, the command to dye grey hair is for someone whose greyness is like that of Abū Quḥāfah—who was completely white-haired, in a way that was not at all beautiful—while

267 *Sharḥ Ṣaḥīḥ Muslim*, Vol. 14, p. 80, under the chapter heading: 'The recommendation of dying grey hair yellow or red, and the prohibition of dying it black'.

268 Perhaps 'at-Ṭabarī' is more correct.

the prohibition is for someone who is merely grey-haired, i.e. he has gone a little grey.'

At-Ṭabarānī²⁶⁹ said: 'The differences of opinion among the first generations of Muslims in implementing these two stipulations accord with their different situations in this regard. Nevertheless, there is consensus that neither the command nor the prohibition [to dye hair] is an obligation. For this reason, none of them contested the others' contrary opinion.'

He said: 'It is not permissible to say regarding these two [stipulations]: 'abrogating' (*nāsikh*) and 'abrogated' (*mansūkh*)²⁷⁰.'

Al-Qāḍī 'Iyāḍ said: 'Others held the view that there are two cases. In the case of someone whose family's custom is to dye the hair—or not to dye it—his abandoning this custom is a [cause of] notoriety, which is disliked (*makrūh*). The second case is that the stipulation differs depending on the neatness (*naẓafah*) of the grey hair. If a person's grey hair is neater than it is when dyed, then it is better for him to leave it; whereas if a person's grey hair looks ugly, then it is better for him to dye it.' This is what was cited by al-Qāḍī 'Iyāḍ. The most correct position and that which is in greatest conformity with the Sunnah is our aforementioned position. And Allāh knows best.' This is the end of what an-Nawawī said on the topic²⁷¹.

Imām al-Ḥākim considered the twenty-ninth category of ḥadīth science to be: "knowledge of the *sunan* of the Messenger of Allāh ﷺ which are contradicted by his other *sunan*, and which the Imāms of the legal schools take one or the other as evidence [in support of their differing positions]". This category has subsequently been known as 'conflicting ḥadīths' (*mukhtalif al-ḥadīth*). Al-Ḥākim cited examples from this category, concluding with this exquisite example:

Al-Ḥākim attributed by chain of transmission to 'Abd al-Wārith ibn Sa'īd at-Tannūrī that he said: "I arrived at Makkah and found Abū Ḥanīfah, Ibn Abī Laylā and Ibn Shubrumah. I asked Abū Ḥanīfah, 'What

269 See Note 269.

270 It seems that someone held this view [i.e. that some narrations abrogated others], so he wanted to refute it. This is why I said that this passage brings together the three methods. And Allāh knows best.

271 See also a discussion of exquisite learning between al-Qāḍī 'Iyāḍ and Abū Ja'far Aḥmad ibn 'Abd ar-Raḥmān al-Baṭrūjī al-Qurṭubī on the issue of dying (*khiḍāb*) in Ibn al-Abbār's *Mu'jam Ashāb Abi 'Alī aṣ-Ṣadafī*, p. 24.

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²⁶⁸ Perhaps 'aṭ-Ṭabarī' is more correct.

the prohibition is for someone who is merely grey-haired, i.e. he has gone a little grey.'

Aṭ-Ṭabarānī²⁶⁹ said: 'The differences of opinion among the first generations of Muslims in implementing these two stipulations accord with their different situations in this regard. Nevertheless, there is consensus that neither the command nor the prohibition [to dye hair] is an obligation. For this reason, none of them contested the others' contrary opinion.'

He said: 'It is not permissible to say regarding these two [stipulations]: 'abrogating' (*nāsikh*) and 'abrogated' (*mansūkh*)²⁷⁰.'

Al-Qāḍī 'Iyāḍ said: 'Others held the view that there are two cases. In the case of someone whose family's custom is to dye the hair—or not to dye it—his abandoning this custom is a [cause of] notoriety, which is disliked (*makrūh*). The second case is that the stipulation differs depending on the neatness (*naẓafah*) of the grey hair. If a person's grey hair is neater than it is when dyed, then it is better for him to leave it; whereas if a person's grey hair looks ugly, then it is better for him to dye it.' This is what was cited by al-Qāḍī 'Iyāḍ. The most correct position and that which is in greatest conformity with the Sunnah is our aforementioned position. And Allāh knows best." This is the end of what an-Nawawī said on the topic²⁷¹.

Imām al-Ḥākim considered the twenty-ninth category of ḥadīth science to be: "knowledge of the *sunan* of the Messenger of Allāh ﷺ which are contradicted by his other *sunan*, and which the Imāms of the legal schools take one or the other as evidence [in support of their differing positions]". This category has subsequently been known as 'conflicting ḥadīths' (*mukhtalif al-ḥadīth*). Al-Ḥākim cited examples from this category, concluding with this exquisite example:

Al-Ḥākim attributed by chain of transmission to 'Abd al-Wārith ibn Sa'īd at-Tannūrī that he said: "I arrived at Makkah and found Abū Ḥanīfah, Ibn Abī Laylā and Ibn Shubrumah. I asked Abū Ḥanīfah, 'What

²⁶⁹ See Note 269.

²⁷⁰ It seems that someone held this view [i.e. that some narrations abrogated others], so he wanted to refute it. This is why I said that this passage brings together the three methods. And Allāh knows best.

²⁷¹ See also a discussion of exquisite learning between al-Qāḍī 'Iyāḍ and Abū Ja'far Aḥmad ibn 'Abd ar-Raḥmān al-Baṭrūjī al-Qurtubī on the issue of dying (*khidāb*) in Ibn al-Abbār's *Mu'jam Aṣḥāb Abī 'Alī aṣ-Ṣadafī*, p. 24.

is your opinion of a man who sells something, stipulating a condition?' He replied, 'The sale is void and the condition is void.' Then I went to Ibn Abī Laylā and asked him [the same question]. He said, 'The sale is permitted, but the condition is void.' Then I went to Ibn Shubrumah and asked him [the same question]. He said, 'The sale is permitted and the condition is permitted.'

So I said: 'Praise be to Allāh!' (*Subḥān Allāh!*) [You are] three of the [leading] jurists of Iraq, and yet you have given me three different opinions on a single issue!

So I went to Abū Ḥanīfah and informed him of this. He said: 'I do not know what the other two said, but 'Amr ibn Shu'ayb narrated to me from his father, from his grandfather, that the Prophet ﷺ prohibited selling with conditions. So the sale is void and the condition is void.'

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Then I went to Ibn Shubrumah and informed him. He said: 'I do not know what the other two said, but Miṣ'ar ibn Kidām narrated to me from Muḥārīb ibn Dithār, from Jābir, who said, "I sold the Prophet ﷺ a she-camel (*nāqah*), and he stipulated that I transport it to al-Madinah. The sale is permitted and the condition is permitted."²⁷²

Some people may think that the matter is simpler than a spoonful of

272 Before commenting on this story by providing its sources (*takhrīj*) and establishing whether it is rigorously authenticated (*ṣaḥīḥ*) or weak (*ḍa'īf*), I will say: that the disciplines of the Noble Islamic Sciences in general—and the science of ḥadīth in particular—have been afflicted by those who hasten to attack, without consideration, any discussion of them. I will return to this statement at the end of the comment.

This story was narrated by many Imāms, via various chains of transmission.

The first of these is al-Ḥākim's aforementioned chain of transmission. It includes 'Abd Allāh ibn Ayūb ibn Zādhān aḍ-Ḍarīr al-Qirabī, whom al-Ḥākim himself cited from his Shaykh, aḍ-Ḍarāquṭnī, in his *As'īlah*, (125), as being an unreliable narrator (*matrūk*). This was also cited by al-Khaṭīb in his *Tārīkh*, Vol. 9, p. 413, and repeated by later scholars of the science of discrediting and crediting narrators (*al-jarḥ wa't-ta'dīl*) in their books.

[This chain of transmission] also contains: Muḥammad ibn Sulaymān adh-Dhuhālī, for whom I am not aware of a biography.

The story was narrated with this chain of transmission by aṭ-Ṭabarānī in *Al-Awsat*, Vol. 5, p. 184, (4358).

These two men are also in Ibn Ḥazm's chain of transmission in *Al-Muḥallā*, Vol. 8, p. 415, since he narrated it from the chain al-Ḥākim.

Another who narrated it from the chain of al-Ḥākim is 'Abd al-Ḥaqq al-Ishbīlī, in his *Aḥkām*. Az-Zaylā'ī reported from him in *Naṣb ar-Rāyah*, Vol. 4, p. 18.

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The second [chain of transmission] is that of al-Khaṭṭābī in *Ma'ālim as-Sunan*: Vol. 3, p. 145 in the separate Aleppo edition; Vol. 3, p. 774 in the edition published with *As-Sunan* [of Abu Dawūd] in Ḥoms; and Vol. 5, p. 154 in the Egyptian edition published with *Mukhtaṣar al-Mundhirī* and Ibn al-Qayyim's Notes on it.

Al-Khaṭṭābī's chain of transmission for it is: "Muḥammad ibn Ḥāshim ibn Hishām narrated to me from 'Abd Allāh ibn Fayrūz ad-Daylamī, who said: 'Muḥammad ibn Salīm—not Sulaymān—adh-Dhuhālī narrated to us, from 'Abd al-Wārith. . .'"

The third [chain of transmission] is the narration of the story by Ṭalḥah ibn Muḥammad al-'Adl in *Musnad Abī Ḥanīfah*, from Ibn 'Uqdah, from al-Ḥasan ibn al-Qāsim, from al-Ḥusayn al-Bajālī, from 'Abd al-Wārith. This is found in al-Khuwārazmī's *Jamī' al-Masānid*, Vol. 2, p. 22. He then cites them with the chains of transmission of Ibn Khusraw, Muḥammad ibn 'Abd al-Bāqī and Abū Nu'aym—as aforementioned—via al-Qirabī.

My position is to prefer the first chain of transmission. Despite the fact that it includes al-Qirabī, we ought to note that Imām al-Ḥākim narrated [the story] in order to establish a sixth principle of the knowledge of conflicting ḥadīths (*ma'rīfat mukhtalif al-ḥadīth*), while its chain of transmission includes al-Qirabī. Imām al-Ḥākim himself, who quoted aḍ-Ḍarāquṭnī as saying that [al-Qirabī] is an unreliable narrator (*matrūk*), subtly alluded to his knowledge of this, and that he bore it in mind and did not disregard it; [furthermore,] that this accusation does not harm him [as a narrator] here, since his being considered an unreliable narrator (*matrūk*) because of some matter pertaining to his uprightness, or the obscenity of the error that he made, does not affect—without exception—all his ḥadīths, providing we have supporting evidence for that. Consider the words of [the Prophet ﷺ] to Abū Hurayrah: "He [i.e. Satan] told you the truth, although he is a liar!"

This subtle allusion by al-Ḥākim was by means of narrating the story from six of his Shaykhs, among them Imāms, all of whom narrated it from al-Qirabī. He therefore had confidence in it, and established upon it a sixth principle of the knowledge of conflicting ḥadīths (*ma'rīfat mukhtalif al-ḥadīth*), saying: "A sixth principle. It was narrated to us by Abū Bakr ibn Ishāq, 'Alī ibn Ḥamshādh, Ja'far ibn Muḥammad al-Khulḍī, 'Amr ibn Muḥammad al-'Adl, Abū Bakr ibn Bālawayh and al-Ḥasan ibn Muḥammad al-Azhārī, that the Imām"—meaning Abū Bakr ibn Ishāq aṣ-Ṣibghī—said: 'They narrated to us, saying: 'It was narrated to us by 'Abd Allāh ibn Ayūb ibn Zādhān aḍ-Ḍarīr [al-Qirabī]. . .'"

Because of this consideration, Ibn Ḥazm narrated this story with al-Ḥākim's chain of narration—as above—without remarking or commenting on it whatsoever—despite the fact that [Ibn Ḥazm] is critical and sharp-tongued! Similarly, 'Abd al-Ḥaqq narrated it from al-Ḥākim in his *Aḥkām*, without commenting on it; as did az-Zaylā'ī, about whom it is known that he never remained silent about anything, unless it is rigorously authenticated (*ṣaḥīḥ*) or sound (*ḥasan*).

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was well known that he was critical and sharp-tempered, yet he did not criticize al-Qirabi or adh-Dhuhali. He only said: "Its defect is the weakness of Abū Ḥanīfah", as cited by az-Zayla'i.

This is foolish talk, [to which the following aphorisms apply:] "that is typical", and "that is a harmless accusation"!

Imām Qāsim ibn Quṭlūbughā commented on this statement of his in *Munyat al-Alma'i*, p. 48: "If the discrediting is only accepted if explained, then what Ibn al-Qaṭṭān said is not accepted."

Thereafter al-Haythamī mentioned the story in *Al-Majma'*, Vol. 4, p. 85, attributing it to *Al-Mu'jam al-Awsat*—as above—and did not find fault with it, except to say: "The chain of transmission of 'Abd Allāh ibn 'Amr is criticized." He means that the ḥadīth which Imām Abū Ḥanīfah cited as evidence is narrated by 'Amr ibn Shu'ayb, from his father, from his grandfather, which is a chain of transmission that is criticized in terms of its continuity (*iṭṭiṣāl*). This is true; however, the reliable opinion is its continuity. See what I wrote on the biography of this 'Amr in *Al-Kāshif* (4173). The principle underlying the method of al-Haythamī—and others—is to find fault with the ḥadīth in the severest possible terms. Even if al-Haythamī—and others—did otherwise, the principle still remains. (Need to double check this. . .)

Furthermore, Ibn Ḥajar, in *Ad-Dirāyah*, Vol. 2, p. 151, (777), did not comment on the ḥadīth at all, even though one of his concerns and the prerogatives of his book—compared to the original, *Naṣb ar-Rāyah* [of which it is an abridgement]—is his concern with the classification of the ḥadīths, to a greater extent than az-Zayla'i.

Finally, our Shaykh, Shaykh Aḥmad ibn aṣ-Ṣiddīq al-Ghumārī—the Ibn Ḥazm of our age—reported the ḥadīth among other ḥadīths in his editing of *Bidāyat al-Mujtahid*, Vol. 7, p. 248, without criticizing it, while the chains of transmission were before him. He cited Ibn Ḥajar, in *At-Talkhīṣ al-Ḥabīr*, Vol. 3, p. 12, as the basis for what he said.

This is all—and Allāh knows best—on the observation which I mentioned regarding the method of al-Ḥākim.

This is what concerns the first chain of transmission.

Regarding the second chain of transmission: there is the issue of 'Abd Allāh ibn Fayrūz ad-Daylamī following al-Qirabi.

Regarding the third chain of transmission: there is another instance of following al-Qirabi, and that of following adh-Dhuhali.

I will return to what brought about this long note and say: let the reader, following this lengthy look at the narration of the story, take a look at what is discussed in *As-Silsilat ad-Dā'iḥ* [by al-Albānī] (Vol. 1, p. 703–704), whereby he glances superficially at the appearance of the chain of transmission, and if he finds any narrator who is criticized, he regards the ḥadīth as invalid, without deliberation or impartiality!

There are matters in this discussion which I do not wish to uncover at length; however, I will point out the fraud in one of them.

Having described one of the greatest Imāms, Abū Ḥanīfah as 'weak' (*dā'if*), [al-Albānī] said: "That is why al-Ḥāfiẓ ibn Ḥajar regarded this ḥadīth as strange (*istaghṛabahū*), in *Bulūgh al-Marām* (Vol. 3, p. 20), with its commentary: *Subul As-Salām*. He also attributed to aṭ-Ṭabarānī in *Al-Awsat* [that he considered it strange]. An-Nawawī also regarded it as strange. They were entitled to do so, since the ḥadīth is preserved via different chains of transmission from 'Amr ibn Shu'ayb, from his father, from his grandfather, with the wording: "The Messenger of Allāh prohibited two conditions in selling. This is the origin of the ḥadīth. Abū Ḥanīfah was deluded in his narration—if it was preserved."

I ask, by Allāh, each reader to be fair, and to read what Ibn Ḥajar said in *Bulūgh al-Marām*,

indeed in all his books, and then to judge: is it true that Ibn Ḥajar regarded this ḥadīth as weak (*dā'if*) because he regarded Abū Ḥanīfah as weak?!! Oh, Allāh, this is a fabrication about Ibn Ḥajar. Furthermore, which of the scholars has said that the word 'strange' (*gharīb*) means 'very weak' (*dā'if jiddan*) or 'invalid' (*bāṭil*)?!!

Furthermore, [al-Albānī's] reasoning that an-Nawawī regarded this ḥadīth as strange based upon Ibn Ḥajar's regarding it as strange is a deceit which can only be mastered by him and his like.

The explanation is that this ḥadīth "prohibited selling with a condition". Imām Abū Ishāq ash-Shirāzī cited it as evidence in *Al-Muḥadhdhab*. In that particular chapter, an-Nawawī quoted him in full, then began his commentary—his normal habit is to first discuss what was said by ash-Shirāzī. He [i.e. an-Nawawī] said (Vol. 9, p. 368 from a copy of the Muniriyyah edition): "As for the ḥadīth, it is strange (*gharīb*). This means that he was not aware of it, a term similar to that used by az-Zayla'i in *Naṣb ar-Rāyah*. It does not mean that he regarded it as weak (*dā'if*), the way in which the term is used by at-Tirmidhī—usually—when he describes a ḥadīth as 'strange' (*gharīb*) only, without adding the words 'sound' (*hasan*) or 'rigorously authenticated' (*ṣaḥīḥ*).

A similar example of this situation involving an-Nawawī is the situation of ar-Rāfi'i before him. Al-Ḥāfiẓ mentioned this ḥadīth in *At-Talkhīṣ al-Ḥabīr* (Vol. 3, p. 12), saying: "Ar-Rāfi'i vindicated it in *At-Tadhniib*, and an-Nawawī regarded it as strange. . ."

He then, a few lines later, quoted Ibn Abī al-Fawāris as describing it as 'strange' (*gharīb*). This matter requires consideration of everything said by Ibn Abī al-Fawāris, and his use of the terminology therein.

With regard to his [i.e. al-Albānī's] claim that the origin of the ḥadīth is that [The Messenger of Allāh] prohibited two conditions in selling, and that the Imām [Abū Ḥanīfah] was deluded in his narration, this is a false claim, because the Imām narrated the two ḥadīths: that he 'prohibited a condition in selling'; and: "Forbid them from two conditions in selling". This is from the narration of Abū Yāfur, from those who narrated it to him, from 'Abd Allāh ibn 'Amr, from the Prophet, that he sent 'Attāb ibn Asīd to Makkah, saying: "Forbid them from two conditions in selling. . .". This is how it is in *Uqūd al-Jawāhir al-Munīfah*, Vol. 2, p. 31. It is also in Abū Yūsuf's *Al-Āthār*, p. 181, (828): from Abū Ḥanīfah, from Abū Yaḥyā, from those who narrated to him, from 'Attāb ibn Asīd. It is also in Imām Muḥammad's *Al-Āthār*, p. 161, (730) [as follows]: Abū Ḥanīfah, from Yaḥyā ibn 'Āmir, from someone, from 'Attāb. The correct version is: from Yaḥyā, from 'Āmir, who is Imām Sha'bi. See the commentary on Abū Yūsuf's *Āthār*.

Regarding the blunderer's taking cover behind the words of Imām Ibn Taymiyah, he opposed him in all his rulings on the ḥadīth:

Ibn Taymiyah says: 'an invalid (*bāṭil*) ḥadīth'; whereas he says: 'very weak' (*dā'if jiddan*).

Ibn Taymiyah says: 'It is not found in any of the books of ḥadīth'; whereas he traces it to aṭ-Ṭabarānī, in *Al-Awsat*, and al-Ḥākim's *Ma'rifat 'Ulūm al-Ḥadīth*.

Ibn Taymiyah says: 'a report with a discontinuous chain of transmission' (*munqaṭi'ah*); whereas he cites its chain of transmission, so it is supported (*musannadah*).

Ibn Taymiyah says: 'The report is from Abū Ḥanīfah, Abū Laylā, and Sharīk'; whereas he transmitted it from Abū Ḥanīfah, Ibn Abī Laylā, and Ibn Shubrumah. He did not pursue [Ibn Taymiyah] in any of these [discrepancies]. Yet if these remarks had been made by al-Kawtharī—for example—he would have let loose his tongue on him!

Regarding Ibn Taymiyah's transmitting from Imām Aḥmad ibn Ḥanbal that he rejected the ḥadīth: this is another example which can be added to those which will be cited from Imām Aḥmad on p. 180.

I will leave the juristic interpretations to the jurists (*fuqahā*), each in his position (*madhhab*)

was well known that he was critical and sharp-tempered, yet he did not criticize al-Qirabi or adh-Dhuhali. He only said: "Its defect is the weakness of Abū Ḥanīfah", as cited by az-Zaylā'ī.

This is foolish talk, [to which the following aphorisms apply:] "that is typical", and "that is a harmless accusation"!

Imām Qāsim ibn Quṭlūbughā commented on this statement of his in *Munyat al-Alma'i*, p. 48: "If the discrediting is only accepted if explained, then what ibn al-Qaṭṭān said is not accepted."

Thereafter al-Haythamī mentioned the story in *Al-Majma'*, Vol. 4, p. 85, attributing it to *Al-Mu'jam al-Ausat*—as above—and did not find fault with it, except to say: "The chain of transmission of 'Abd Allah ibn 'Amr is criticized." He means that the ḥadīth which Imām Abū Ḥanīfah cited as evidence is narrated by 'Amr ibn Shu'ayb, from his father, from his grandfather, which is a chain of transmission that is criticized in terms of its continuity (*ittiṣāl*). This is true; however, the reliable opinion is its continuity. See what I wrote on the biography of this 'Amr in *Al-Kāshif* (4173). The principle underlying the method of al-Haythamī—and others—is to find fault with the ḥadīth in the severest possible terms. Even if al-Haythamī—and others—did otherwise, the principle still remains. (Need to double check this. . .)

Furthermore, Ibn Ḥajar, in *Ad-Dirāyah*, Vol. 2, p. 151, (777), did not comment on the ḥadīth at all, even though one of his concerns and the prerogatives of his book—compared to the original, *Naṣb ar-Rāyah* [of which it is an abridgement]—is his concern with the classification of the ḥadīths, to a greater extent than az-Zaylā'ī.

Finally, our Shaykh, Shaykh Aḥmad ibn aṣ-Ṣiddiq al-Ghumārī—the Ibn Ḥazm of our age—reported the ḥadīth among other ḥadīths in his editing of *Bidāyat al-Mujtahid*, Vol. 7, p. 248, without criticizing it, while the chains of transmission were before him. He cited Ibn Ḥajar, in *At-Talkhīṣ al-Ḥabīr*, Vol. 3, p. 12, as the basis for what he said.

This is all—and Allāh knows best—on the observation which I mentioned regarding the method of al-Ḥākim.

This is what concerns the first chain of transmission.

Regarding the second chain of transmission: there is the issue of 'Abd Allāh ibn Fayrūz ad-Daylamī following al-Qirabī.

Regarding the third chain of transmission: there is another instance of following al-Qirabī, and that of following adh-Dhuhali.

I will return to what brought about this long note and say: let the reader, following this lengthy look at the narration of the story, take a look at what is discussed in *As-Silsilat al-Da'if* [by al-Albānī] (Vol. 1, p. 703–704), whereby he glances superficially at the appearance of the chain of transmission, and if he finds any narrator who is criticized, he regards the ḥadīth as invalid, without deliberation or impartiality!

There are matters in this discussion which I do not wish to uncover at length; however, I will point out the fraud in one of them.

Having described one of the greatest Imāms, Abū Ḥanīfah as 'weak' (*da'if*), [al-Albānī] said: "That is why al-Ḥāfiẓ ibn Ḥajar regarded this ḥadīth as strange (*istaghṛabahu*), in *Bulūgh al-Marām* (Vol. 3, p. 20), with its commentary: *Subul As-Salām*. He also attributed to aṭ-Ṭabarānī in *Al-Ausat* [that he considered it strange]. An-Nawawī also regarded it as strange. They were entitled to do so, since the ḥadīth is preserved via different chains of transmission from 'Amr ibn Shu'ayb, from his father, from his grandfather, with the wording: "The Messenger of Allāh prohibited two conditions in selling. This is the origin of the ḥadīth. Abū Ḥanīfah was deluded in his narration—if it was preserved."

I ask, by Allāh, each reader to be fair, and to read what Ibn Ḥajar said in *Bulūgh al-Marām*,

indeed in all his books, and then to judge: is it true that Ibn Ḥajar regarded this ḥadīth as weak (*da'if*) because he regarded Abū Ḥanīfah as weak?!! Oh, Allāh, this is a fabrication about Ibn Ḥajar. Furthermore, which of the scholars has said that the word 'strange' (*gharīb*) means 'very weak' (*da'if jiddan*) or 'invalid' (*bāṭil*)?!!

Furthermore, [al-Albānī's] reasoning that an-Nawawī regarded this ḥadīth as strange based upon Ibn Ḥajar's regarding it as strange is a deceit which can only be mastered by him and his like.

The explanation is that this ḥadīth "prohibited selling with a condition". Imām Abū Ishāq ash-Shīrāzī cited it as evidence in *Al-Muḥadhdhab*. In that particular chapter, an-Nawawī quoted him in full, then began his commentary—his normal habit is to first discuss what was said by ash-Shīrāzī. He [i.e. an-Nawawī] said (Vol. 9, p. 368 from a copy of the Muniriyyah edition): "As for the ḥadīth, it is strange (*gharīb*). This means that he was not aware of it, a term similar to that used by az-Zaylā'ī in *Naṣb ar-Rāyah*. It does not mean that he regarded it as weak (*da'if*), the way in which the term is used by at-Tirmidhī—usually—when he describes a ḥadīth as 'strange' (*gharīb*) only, without adding the words 'sound' (*ḥasan*) or 'rigorously authenticated' (*ṣaḥīḥ*).

A similar example of this situation involving an-Nawawī is the situation of ar-Rāfi' before him. Al-Ḥāfiẓ mentioned this ḥadīth in *At-Talkhīṣ al-Ḥabīr* (Vol. 3, p. 12), saying: "Ar-Rāfi' indicated it in *At-Tadhnīb*, and an-Nawawī regarded it as strange. . ."

He then, a few lines later, quoted Ibn Abī al-Fawāris as describing it as 'strange' (*gharīb*). This matter requires consideration of everything said by Ibn Abī al-Fawāris, and his use of the terminology therein.

With regard to his [i.e. al-Albānī's] claim that the origin of the ḥadīth is that [The Messenger of Allāh] 'prohibited two conditions in selling', and that the Imām [Abū Ḥanīfah] was deluded in his narration, this is a false claim, because the Imām narrated the two ḥadīths: that he 'prohibited a condition in selling'; and: "Forbid them from two conditions in selling". This is from the narration of Abū Yāfur, from those who narrated it to him, from 'Abd Allāh ibn 'Amr, from the Prophet, that he sent 'Attāb ibn Asīd to Makkah, saying: "Forbid them from two conditions in selling. . .". This is how it is in *Uqūd al-Jawāhir al-Munīfah*, Vol. 2, p. 31. It is also in Abū Yūsuf's *Al-Āthār*, p. 181, (828): from Abū Ḥanīfah, from Abū Yahyā, from those who narrated to him, from 'Attāb ibn Asīd. It is also in Imām Muḥammad's *Al-Āthār*, p. 161, (730) [as follows]: Abū Ḥanīfah, from Yahyā ibn 'Āmir, from someone, from 'Attāb. The correct version is: from Yahyā, from 'Āmir, who is Imām Sha'bi. See the commentary on Abū Yūsuf's *Āthār*.

Regarding the blunderer's taking cover behind the words of Imām Ibn Taymiyah, he opposed him in all his rulings on the ḥadīth:

Ibn Taymiyah says: 'an invalid (*bāṭil*) ḥadīth'; whereas he says: 'very weak' (*da'if jiddan*).

Ibn Taymiyah says: 'It is not found in any of the books of ḥadīth'; whereas he traces it to aṭ-Ṭabarānī, in *Al-Ausat*, and al-Ḥākim's *Ma'rifat 'Ulūm al-Ḥadīth*.

Ibn Taymiyah says: 'a report with a discontinuous chain of transmission' (*munqati'ah*); whereas he cites its chain of transmission, so it is supported (*musannadah*).

Ibn Taymiyah says: 'The report is from Abū Ḥanīfah, Abū Laylā, and Sharīk'; whereas he transmitted it from Abū Ḥanīfah, Ibn Abī Laylā, and Ibn Shubrumah. He did not pursue [Ibn Taymiyah] in any of these [discrepancies]. Yet if these remarks had been made by al-Kawtharī—for example—he would have let loose his tongue on him!

Regarding Ibn Taymiyah's transmitting from Imām Aḥmad ibn Ḥanbal that he rejected the ḥadīth: this is another example which can be added to those which will be cited from Imām Aḥmad on p. 180.

I will leave the juristic interpretations to the jurists (*fuqahā*), each in his position (*madhhab*)

honey. If one of them is asked about the manner in which the Prophet ﷺ performed pilgrimage—whether he performed Ḥajj on its own (*mufradan*), ‘umrah followed by Ḥajj (*tamattuʿan*), or combined Ḥajj and ‘umrah (*qirānan*)—and there is only one pilgrimage—you will hear him answer the question before it is completed, by producing a ḥadīth which he knows, or two, or ten.

Not only this, but—if you contradict him—he may retort that such-and-such Imām said this! So you see that he follows an Imām (*taqlīd*) and argues in favour of following an Imām, whilst before he was an ardent adherent of independent reasoning. Al-Ḥākim mentioned, in relation to this topic²⁷³, the ḥadīth of Anas: “I heard the Messenger of Allāh ﷺ making the intention for Ḥajj and ‘umrah together.” [Al-Ḥākim] also mentioned Ibn ‘Umar’s opposition to this, and then said: “Abū Bakr Muḥammad ibn Ishāq [meaning Ibn Khuzaymah] spoke satisfactorily on these reports, and preferred performing ‘umrah followed by Ḥajj (*tamattuʿ*), as did Aḥmad and Ishāq. Ash-Shāfiʿī preferred performing Ḥajj alone (*ifrād*), while Abū Ḥanīfah preferred combining Ḥajj and ‘umrah (*qirān*).”

Ibn Khuzaymah’s satisfactory and lengthy treatment of this came in five parts, as al-Ḥākim himself said. He quoted therein the opinion of Abū’l-Ḥasan as-Sinjānī: “I studied the issue of Ḥajj discussed by Muḥammad ibn Ishāq ibn Khuzaymah and came to the conclusion that it is an area of knowledge in which we are not proficient.”

giving preference, according to his perspective, to one of these three ḥadīths: that [the Prophet ﷺ] prohibited a condition in selling; the ḥadīth of Barīrah; and the ḥadīth of Jābir’s camel. If you desire to investigate further, then see, in addition to what I have previously drawn attention to: as-Sarakhsi’s *Al-Mabsūṭ* (Vol. 7, p. 13); Ibn Rushd al-Jadd’s *Al-Muqaddimāt al-Mumahhidāt* (Vol. 2, p. 67); and others.

What is more, this disposition in learning has been inherited from this hasty blunderer by the readers of his books, through which they have become his students. Because of this, it was a very simple matter—which would not otherwise have deserved mention—for the commentator on al-Haythamī’s *Majmaʿ al-Baḥrayn* (Vol. 3, p. 367, (1973)), to classify adh-Dhuhālī as unknown (*jahālāh*), since he had not seen his biography—as if he is blindly following the author of *As-Silsilah* in his rejection—and did not stop at saying: ‘I am not aware of a biography for him!’ Where is the consideration of the scholars (*ulamāʾ*) who, in this kind of situation, say: ‘I do not know of him’; rather than saying: ‘He is unknown’, and say of the ḥadīth: ‘I do not know of its origin’; rather than: ‘It has no basis.’?

I refer the grievance to Allāh. It is a complicated issue.

273 P. 124.

To this I say: What would Abū’l-Ḥasan say if he saw the book of Imām at-Ṭaḥāwī, the contemporary of Ibn Khuzaymah?

Here is what Imām an-Nawawī²⁷⁴ quoted from al-Qāḍī ‘Iyād.

He ﷺ said: “Al-Qāḍī ‘Iyād said: ‘People have spoken a lot about these ḥadīths. Some were proficient and fair; some were reductive and affected; some were long-winded and verbose; some were restrictive and succinct.’ He continued: “The one who spoke at greatest length was Abū Jaʿfar at-Ṭaḥāwī al-Ḥanafī, who wrote more than a thousand pages on the subject! Along with him, it was also discussed by Abū Jaʿfar at-Ṭabarī, then Abū ‘Abd Allāh ibn Abī Ṣufrah, then al-Muhallab, al-Qāḍī Abū ‘Abd Allāh ibn al-Murābiṭ, al-Qāḍī Abū’l-Ḥasan ibn al-Qaṣṣār al-Baghdādī, al-Ḥāfiẓ Abū ‘Umar ibn ‘Abd al-Barr, and others.”

Is it appropriate, therefore, for a rational student of knowledge to have the audacity—based merely on a few pages that he has read. . . and Allāh knows best how well he learnt and understood them—to disdain the teachings of the Imāms?

This at-Ṭaḥāwī, whose book examining this minor matter nears the size of *Ṣaḥīḥ al-Bukhārī*, clearly nevertheless preserves his affiliation to a particular legal school. Even if he opposes it on some issues, he does not renounce the affiliation wholesale. Neither does he attack it, or those who follow it, with a single word!

Previous Imāms went to great lengths to collect the apparently conflicting ḥadīths into one place, then to analyse them, and to explain the results of this analysis. In this way, Imām ash-Shāfiʿī ﷺ composed the book: *Ikhtilāf al-Ḥadīth*, and Ibn Qutaybah wrote *Taʾwīl Mukhtalif al-Ḥadīth*, in which there are certain areas of contention. These are both published, and there is also a book on the subject by Zakariyā as-Sājī, which was mentioned by the author of *Kashf az-Zunūn*, under the title *Ikhtilāf al-Ḥadīth*.

Imām Ibn Jarīr at-Ṭabarī also authored a book on the subject, which he called *Tahdhīb al-Āthār*, about which the author of *Al-Kashf* said: “It stands alone on its subject, without parallel.” A small portion of it was published in four parts, after which there followed a fifth part.

Imām Abū Jaʿfar at-Ṭaḥāwī authored two great books on this subject. One of these was *Sharḥ Maʿānī al-Āthār al-Mukhtalifah al-Marwīyyah ‘an Rasūl*

274 *Sharḥ Ṣaḥīḥ Muslim*, Vol. 8, p. 136.

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274 *Sharḥ Ṣaḥīḥ Muslim*, Vol. 8, p. 136.

Allāh ﷺ *fi'l-Aḥkām*²⁷⁵. It is his first work—although it testifies to his status as Imām and independent jurist (*mujtahid*)—as reported by al-Ḥāfiẓ al-Qurashī²⁷⁶.

The second is *Mushkil al-Āthār*. This is his last work, as also reported by al-Qurashī. Al-Kawtharī ﷺ²⁷⁷ said of it: "It is a book the like of which has not been written on this subject, whether in the past or contemporaneously."

There are also other treatises devoted specifically to the subject, as well as a variety of research and opinions written about it.

275 This is what its author called it, Vol. 2, p. 189. See also a clear and reliable study of this book and *Mushkil al-Āthār*, and a comparison with other books which treat the subject, in the book: *Abū Ja'far at-Taḥāwī wa Atharuhu fi'l-Ḥadīth*, by Dr. Al-Fāḍil 'Abd al-Majīd Maḥmūd 'Abd al-Majīd, pp. 133–139 and 286–316.

276 In his book, *Al-Jawāhir al-Muḍiyyah*, Vol. 1, p. 104.

277 In his commentary on *Dhuyūl Tadhkirat al-Ḥuffāz*, p. 195. It has been recently published and edited with a study on it which lacks clarity.

THE FOURTH REASON

Differences of opinion among the Imāms due to their varying degrees of acquaintance with the Sunnah

I WILL OPEN THE DISCUSSION of this Fourth Reason for differences of opinion among the Imāms with the words of ash-Shāfi'ī ﷺ in his famous work, *Ar-Risālah*²⁷⁸: "We do not know of anyone who collected the *Sunan*, without missing some part of it. If the knowledge of all of the people of knowledge were collected, this would constitute [all of] the *Sunan*. However, if their knowledge were separated, each of them would miss something [therefrom]. Moreover, the *Sunan* which each had missed would be included by one of their counterparts. They have different levels of knowledge; some of them have acquired most of [the *Sunan*], although they have missed a part of it, whereas some have acquired less than others."

He confirmed this idea in another statement²⁷⁹: "A person may be unaware of [elements of] the Sunnah, and therefore hold an opinion which contradicts it—not that he intended to contradict it. A person may be unaware and may misinterpret."

Ḥāfiẓ al-Maghrib Imām Ibn 'Abd al-Barr ﷺ²⁸⁰ said: "I do not know of a single Companion who has not been unaware of some specialised knowledge (*'ilm al-khāṣṣah*) that was reported through a singly-transmitted narration (*naql al-āḥād*) which one of his counterparts had preserved. This

278 P. 42–43.

279 P. 219.

280 *Al-Istidhār*, Vol. 1, p. 36.

is even more conceivable of those who came after them. Truly comprehensive knowledge [of the Sunnah] is unattainable by anyone."

Imām Ibn Taymīyah rah said: "Whoever thinks that every rigorously authenticated ḥadīth reached every Imām, or a particular Imām, is grossly mistaken."

Imām al-Biqā'ī, in *An-Nukat al-Wafīyyah*²⁸¹, transmitted from his Shaykh, al-Ḥāfiẓ ibn Ḥajar, may Allāh have mercy on them both: "It is not appropriate to describe any member of the Ummah as having collected every ḥadīth, and memorised it and mastered it. It is even said of ash-Shāfi'ī that he said: 'Whoever claims that one man has acquired knowledge of the Sunnah in its entirety, has deviated. Likewise, whoever says that a part of it has eluded the Ummah, has deviated.'"

It is therefore impossible for someone to claim for himself, or for others to claim for him, that he has acquired knowledge of the Sunnah in its entirety, as established by one of the great independent jurist Imāms, Imām ash-Shāfi'ī rah, with the agreement of others from among those who pursue knowledge and devote themselves to investigation.

The fact that the Imāms preserved and attained knowledge of the Sunnah to varying degrees does not mean, for example, that the one who has attained the highest level of knowledge is more entitled to being followed than his counterparts. He may be preferred over others for his greater knowledge [of the Sunnah], while one of his counterparts may be preferred over him for his outstanding intellectual and deductive capacities.

The condition—with regard to possessing knowledge of ḥadīth—is that one reaches the level of independent legal reasoning and is recognised as such. This was also explained by Ibn Taymīyah in *Raf' al-Malām*²⁸²: "Let no one say that whoever does not know every ḥadīth is not an independent jurist (*mujathid*)! For if it were conditional upon an independent jurist that he knew everything that the Prophet ﷺ said and did that relates to legal rulings, there is no such independent jurist in the Ummah. Rather, a scholar's objective is to know most of this, so that only a few details remain unknown to him."²⁸³ This has occurred in the case of all the [*mujathid*] Imāms rah.

281 P. 26b.

282 P. 19.

283 If it is said: The number of ḥadīths relating to legal rulings (*aḥkām*) has been cited as

Imām Aḥmad, for example, is famous for his brilliance in this sphere, as are Imām Mālik, ash-Shāfi'ī, and Abū Ḥanīfah. Nevertheless, some people doubt the legitimacy of Imām Abū Ḥanīfah, and I will therefore briefly discuss him separately.

The noble ḥadīth is, in one regard, a matter of acquiring and receiving; and in another regard it is a matter of narrating and conveying.

First, the ḥadīth scholar receives the ḥadīth from his Shaykhs, which is called 'acquiring' (*taḥammul*); secondly, he narrates it to people, which is called 'discharging' (*adā*).

If he devotes himself to narrating the ḥadīth, people will know his narrations and this will be a sign of the extent to which he has acquired them (*taḥammul*), whether it is great or small. If he becomes occupied with matters other than narration, his occasional narrations will not be proof of the extent—great or small—to which he has acquired them.

Abū Bakr aṣ-Ṣiddīq rah was the first man to accept Islām, the closest Companion of the Prophet ﷺ, and the most knowledgeable of the Companions, to which his counterparts testified. He nevertheless transmitted to us only a very small number of narrations, which do not provide evidence that he was among the most knowledgeable of the Companions, let alone that he was the most knowledgeable of them. The reasons for this are a matter for discussion on another occasion.

A comparable situation applies to Sayyidunā 'Umar, 'Uthmān, 'Alī²⁸⁴, and other Companions of similar standing, may Allāh be pleased with them all. The same is true of a large number of Followers and those who came after them.

This can even be said of Imām Mālik himself, whose fame in the field of ḥadīth was described by his student, Imām ash-Shāfi'ī: "If it comes to

around a thousand or slightly more, so how is this estimate consistent with this statement? The answer is: that this number is intended to represent ḥadīths which are the basis for legal categories and which give explicit rulings. This is not to deny that everything which originates from the Messenger of Allāh ﷺ constitutes legislation from which are derived many rulings related to what is permitted and prohibited (*halāl wa ḥarām*), and to etiquette and morals (*ādāb wa akhlāq*).

Some scholars deduced four hundred lessons from the ḥadīth: "O Abu 'Umayr, what happened to the sparrow (*al-nughayr*)?"! No doubt many of them are related to legal rulings, although more of them are related to etiquette (*ādāb*). See also *Fatḥ al-Bārī*, Vol. 10, p. 584, first; then *At-Tarātib al-Idāriyyah*, by as-Sayyid 'Abd al-Ḥayy al-Kattānī, Vol. 2, p. 150.

284 See the explanation in *'Uqūd al-Jum'ān*, by the ḥadīth scholar, Muḥammad ibn Yūsuf aṣ-Ṣāliḥī ash-Shāmī ash-Shāfi'ī, p. 320.

ḥadīth, Mālik is the star!" It was [Mālik] who said: "I have written with my own hands 100,000 ḥadīths."²⁸⁵ Rather, al-ʿAllāmah az-Zurqānī رحمته, in the Introduction to his Commentary on *Al-Muwattaʿa*²⁸⁶, reported from Ibn al-Hayyāb that Imām Mālik narrated 100,000 ḥadīths.²⁸⁷

The same is also true of Imām ash-Shāfiʿī. Neither of their books contains the abundance of ḥadīths that matches their status as Imāms of the noble ḥadīth and their fame in that field, although it is without doubt a fame that is correct and deserved.

Consider the statement of Ibn Khuzaymah that the only rigorously authenticated Sunnah that he knows of is that which ash-Shāfiʿī established in his books. By this he means the ḥadīths from which rulings have been derived, not the noble ḥadīth in general.

Imām as-Subkī, in *Maʿnā Qawl al-Imām al-Muṭallib*²⁸⁸, said: "It was narrated to us from Ibn Khuzaymah, the distinguished Imām of ḥadīth and fiqh, that he was asked, 'Do you know of a Sunnah of the Messenger of Allāh ﷺ, regarding the permitted and the prohibited (*ḥalāl wa ḥarām*), which ash-Shāfiʿī did not put in his book?' He replied, 'No.'"

Their excuse for this—i.e. Mālik and ash-Shāfiʿī—is that they devoted themselves to fiqh, deep understanding (*tafqīh*), independent reasoning (*ijtihād*), deduction (*istinbāt*), and establishing the principles of fiqh and *ijtihād*, more than they devoted themselves to narration. It does not mean that they had little knowledge of and acquaintance with ḥadīth, rather that they acquired (*taḥammul*) much and discharged (*adāʾ*) [i.e. narrated] little.

This was also the situation with Imām Abū Ḥanīfah; he acquired much and discharged little.

²⁸⁵ As in *Tartīb al-Madārik*, Vol. 1, pp. 121 and 124.

²⁸⁶ Vol. 1, p. 7.

²⁸⁷ 'Narrating' (*riwāyah*) is different from 'acquiring' (*taḥammul*). All [ḥadīth scholars] would narrate far fewer [ḥadīths] than they knew. In the biography of the independent jurist (*mujtahid*) Imām al-Layth ibn Saʿd رحمته, in *Tahdhīb al-Tahdhīb* (Vol. 8, p. 463), it is reported: "Shuʿayb ibn al-Layth said: 'Al-Layth was asked: '[How is it that] we hear ḥadīths from you that are not in your book?' He replied: 'Is everything that is in my heart in my book? If I wrote down everything that was in my heart, this vessel would not be big enough.'"

In *Tadhkirat al-Huffāz* (Vol. 1, p. 544), in the biography of Imām Aḥmad ibn al-Furāt ar-Rāzi, it is recorded that he said: "I wrote down one million, five hundred thousand ḥadīths, from which I included five hundred thousand ḥadīths in my works." I.e. He compiled a third of what he wrote down. And yet: where are the five hundred thousand ḥadīths?!

²⁸⁸ *Majmūʿat ar-Rasāʾil al-Muniriyyah*, Vol. 2, p. 201.

This is testified about him by al-Ḥāfiẓ ibn Ḥajar, from among the later Imāms, in an answer to a request for a legal opinion (*istiftāʾ*) which was put to him, the wording of which is from *Al-Jawāhir waʾd-Durar*, by as-Sakhāwī²⁸⁹: "He—Ibn Ḥajar—was asked about what an-Nasāʾī mentioned in *Ad-Duʿafāʾ waʾl-Matrūkīn* about Abū Ḥanīfah رحمته: 'that he is not strong in ḥadīth, and that he makes many mistakes and slips, despite the fact that he narrates few ḥadīths. Is this true? And did any of the ḥadīth scholar Imāms agree with an-Nasāʾī about this?'

He answered: 'An-Nasāʾī is one of the Imāms of ḥadīth. What he said is only in accordance with how things appeared to him, and that which his independent reasoning (*ijtihād*) led him to. Not all the opinions of every person are to be followed. However, a group of ḥadīth scholars agreed with his general opinion on [Abū Ḥanīfah]. Al-Khaṭīb included their opinions in [Abū Ḥanīfah's] biography in his *Tārīkh*²⁹⁰, some of which are accepted and some rejected. In the Imām's defence, his position was only to narrate what he had preserved from the time he had heard it until he discharged it (*adāʾ*). This is why there are few narrations from him, since his narrations which fulfil this principle are few. Otherwise, he in fact possesses many narrations.

In sum, it is better not to get too involved in this kind of discussion. The Imām and his ilk have crossed over the bridge. They are no longer affected by anyone's opinion. Rather, they occupy the level to which Allāh Most High raised them in that they are adhered to and followed. Let us rely on this. And Allāh is the Guardian of success."

For this reason, Ibn Ḥajar himself, in the biography of Abū Ḥanīfah in *At-Tahdhīb*, avoided any opinion concerning the Imām which contradicts this. Al-Mizzī did the same before him in *Tahdhīb al-Kamāl*; as did adh-Dhahabī in *As-Siyar*, *At-Tadhkirah*, and *Tahdhīb Tahdhīb al-Kamāl*, in which he concluded [Abū Ḥanīfah's] biography by saying²⁹¹: "In my view, our Shaykh, Abū al-Ḥajjāj [al-Mizzī] was correct not to cite anything necessitating that he be considered weak."

A number of reports explicitly indicate this:

²⁸⁹ P. 227b.

²⁹⁰ This gives an indication of the authenticity of what has been published in al-Khaṭīb's *Tārīkh al-Baghdād*, contrary to attempts by some to exempt al-Khaṭīb from this shame.

²⁹¹ Vol. 1, p. 101, from the Aḥmadiyyah Manuscript in Ḥalab.

Az-Zabīdī ²⁹² said: "Yaḥyā ibn Naṣr reported: 'I entered upon Abū Ḥanīfah in a house full of books, and said, 'What's this?' He replied, 'These are all ḥadīths. I have only narrated a small number, which are of benefit.'"

Al-'Allāmah 'Alī al-Qārī, in his *Manāqib*²⁹³, transmitted from Muḥammad ibn Samā'ah that Abū Ḥanīfah ²⁹⁴: "reported some 70,000 ḥadīths, and he selected [his book] *Al-Āthār* from 40,000 ḥadīths."

One interesting matter mentioned within this discussion of Imām Abū Ḥanīfah's preservation of ḥadīths is what was mentioned by a number of Mālikī Imāms in the biography of one of their Imāms, Imām 'Abd Allāh ibn Farrūkh al-Fārisī. He was a student of Imām Mālik and his fiqh was influenced by the Iraqi [i.e. the Ḥanafī] school. He also wrote many matters of fiqh (*masā'il*) from Abū Ḥanīfah—about ten thousand matters.

They reported in his biography that he said: "One day I was with Abū Ḥanīfah, when a brick fell from the top of his house onto my head, which started to bleed. He said, 'Choose: If you want, compensation for the injury—i.e. indemnity—or if you want, three hundred ḥadīths!' So I said, 'Ḥadīth is better for me,' so he narrated to me three hundred ḥadīths."²⁹⁴

We will mention later²⁹⁵ the opinion of Imām Aḥmad ²⁹⁶ that anyone who memorizes 400,000 ḥadīths is fit to formulate independent legal opinions and to issue fatwās. Those Imāms who were contemporaries of Abū Ḥanīfah, and those who came after them, have acknowledged his fiqh and *ijtihād*. Indeed, all are dependent upon his fiqh, which means that he collected this number of ḥadīths, and many more!

Ibn Khaldūn ²⁹⁷, at the end of his discussion of ḥadīth science in his *Al-Muqaddimah*, said:

"The authority of his school of law amongst them—his contemporary Imams—reliance upon it, and consideration of it in terms of rejection and acceptance is an indication that he [i.e. Abū Ḥanīfah] is one of the great independent jurists in the science of ḥadīth."

Imām Aḥmad, who holds this view, and who made this huge number

²⁹² *Uqūd al-Jawāhir al-Munīfah*, Vol. 1, p. 13.

²⁹³ Vol. 2, p. 474, appended to *Al-Jawāhir al-Muḍīyyah*.

²⁹⁴ This story was narrated by Abū Bakr al-Mālikī in *Riyāḍ an-Nufūs* (Vol. 1, p. 116); al-Qāḍī 'Iyāḍ, in *Tartīb al-Madārik* (Vol. 1, p. 344); and Abū Zayd ad-Dabbāgh, in *Ma'ālim al-Imān fi Ma'rifa Ahl al-Qayrawān* (Vol. 1, p. 240).

²⁹⁵ P. 187.

[of ḥadīths] conditional upon anyone fit to formulate independent legal opinions, is one of the great Imāms who praised Imām Abū Ḥanīfah, may Allāh have mercy on all of them. This was mentioned by Imām al-'Aynī ²⁹⁸ in *Al-Bināyah*, and cited by al-'Allāmah al-Muḥaqqiq ash-Shaykh Zafar Aḥmad at-Tahānawī ²⁹⁶.

At-Tūfī al-Ḥanbalī, in his Commentary on his Summary of *Rawḍat an-Nāzir*, at the end of his discussion refuting the rejecters of analogy (*qiyās*)²⁹⁷, said: "In sum, what has been said about him [Imām Abū Ḥanīfah] is that he certainly did not contradict the Sunnah out of opposition to it. Whatever he did contradict, he did so through independent reasoning based on clear and authoritative evidence and sound, manifest proofs. His evidence exists and is available, though his opponents rarely treat them thoroughly. He will be rewarded if he erred, and he will be twice rewarded if he was correct. Those who criticise him are either envious or ignorant of the domain of independent legal reasoning. The last that was authentically reported from Imām Aḥmad ²⁹⁸ was that he spoke about him righteously and praised him. Abū'l-Ward, one of our companions, mentioned this in the book *Uṣūl ad-Dīn*."

Al-'Allāmah aṣ-Ṣāliḥī ash-Shāfi'i, in *Uqūd al-Jummān*²⁹⁸, and also Ibn Ḥajar al-Makkī al-Haytamī ash-Shāfi'i, in *Al-Khayrāt al-Ḥisān*²⁹⁹, transmitted from az-Zaranjarī, who said: "Imām Abū Ḥafṣ al-Kabīr ordered that Imām Abū Ḥanīfah's Shaykhs be counted. Their number reached four thousand, from among the Followers. Aṣ-Ṣāliḥī then listed some of his Shaykhs alphabetically over twenty-three pages³⁰⁰. This is a large number, rarely reported of other Imāms who are ḥadīth specialists.

Also in *Al-Khayrāt al-Ḥisān*³⁰¹: "Abū Yūsuf said: 'I have not seen anyone more knowledgeable in the explanation of ḥadīth than Abū Ḥanīfah. He was more discerning of rigorously authenticated ḥadīth than me.'"

Imām Abū Yūsuf is the one regarding whom the Imām of the science of discrediting and crediting narrators (*jarḥ wa ta'dīl*) and the king

²⁹⁶ In his book: *Qawā'id fi 'Ulūm al-Ḥadīth*, p. 328.

²⁹⁷ Vol. 3, p. 290. P. 23.

²⁹⁸ Pp. 63 and 319.

²⁹⁹ P. 23. See also Al-Muwaffaq al-Makkī's *Manāqib al-Imām*, pp. 38–48; and al-Kardari, pp. 79–97.

³⁰⁰ Pp. 79–97.

³⁰¹ From p. 25 and 61.

of ḥadīth masters (*malik al-ḥuffāz*)³⁰², Yaḥyā ibn Maʿīn, said: "I have not seen from among those who employ independent reasoning (*aṣḥāb ar-raʾi*) anyone more constant and retentive in his preservation of ḥadīth, and more correct in his narration, than Abū Yūsuf."³⁰³ Ibn Maʿīn did not meet Abū Ḥanīfah, so there is no need to ask why he singled out Abū Yūsuf and didn't mention Abū Ḥanīfah.

Also in [*Al-Khayrāt al-Ḥisān*]³⁰⁴ is that Abū Yūsuf said: "Whenever Abū Ḥanīfah resolved upon an opinion, I would circulate amongst the Shaykhs of Kufa, asking, 'Can I find a [Prophetic] ḥadīth or evidence from the Companions or Followers (*athar*) in support of his opinion?' I might find two or three ḥadīths, which I would bring to him. Of some of these he would say, 'This is not rigorously authenticated (*ghayr ṣaḥīḥ*)', or 'not well known (*ghayr mā'rūf*).' Then I would say to him, 'How do you know this, even though it is consistent with your opinion?' He would reply, 'I am well-versed in the knowledge of the people of Kufa.'"

Kufa is where 1500 of the Companions (*Ṣaḥābah*) went to live, filling it with knowledge. In fact, Ibn Mas'ūd alone filled it with knowledge, according to the testimony of 'Alī ibn Abī Ṭālib.³⁰⁵

As-Sarakhsī رحمہ اللہ said in *Al-Mabsūt*³⁰⁶, in explanation of the forthcoming statement by Ibn Mas'ūd³⁰⁷: "He had 4000 students in Kufa, who were studying under him. It is even narrated that when 'Alī رحمہ اللہ arrived at Kufa, Ibn Mas'ūd رحمہ اللہ went out to meet him with his followers, who [were so numerous that they] filled the horizon. When 'Alī رحمہ اللہ saw them, he said: 'You have filled this place with knowledge (*ilm*) and understanding (*fiqh*).'"

In *Al-Musnad*³⁰⁸, [it is narrated] from Ibn Mas'ūd رحمہ اللہ that he gathered his followers and said to them: "By Allāh, I anticipate that there are among you today those who have become amongst the best of the Muslim armies, in terms of religion, fiqh, and knowledge of the Qur'ān."

Due to the abundance of knowledge and scholars found there [i.e.

302 As adh-Dhabī described him in *At-Tadhkirah*, p. 465.

303 As related by adh-Dhabī, in his *Al-Manāqib*, p. 40.

304 P. 61.

305 It is essential to see al-'Allāmah al-Kawtharī, *Fiqh Ahl al-'Irāq wa Ḥadīthuhum*, from p. 40; and al-'Allāmah al-Bannūrī, *Mā'ārifas-Sunan*, Vol. 1, p. 252. May Allāh be pleased with them both.

306 Vol. 16, p. 68.

307 P. 180.

308 Vol. 1, p. 405.

Kufa], the people and youth would become great scholars at an early age, as reported by Ibn Sīrīn, the distinguished and famous Imām, who was a Follower, and who died in the year 110/728: "I have never seen young people more knowledgeable than the [young] people of Kufa."³⁰⁹

Abū Nu'aym narrated³¹⁰, in the biography of al-A'māsh—who was Kufan, that he said: "Ḥabīb ibn Abī Thābit—who was also Kufan—told me: 'The people of the Hejaz and Makkah are more knowledgeable about the rituals of Ḥajj.' He—al-A'māsh—said: 'So I said to him: 'You be for them—i.e. you represent them in the debate; and I will be for my companions—i.e. the people of Kufa. Every letter you produce, I will match it with a ḥadīth!'"

Imām al-Ḥākim رحمہ اللہ established³¹¹ a special category [of ḥadīth science]—the forty ninth category—which he introduced as follows: "This category is knowledge of reliable and well known Imāms from among the Followers and those who followed them, whose ḥadīths are gathered for preservation and study, and to seek blessing by [following] and remembering them, from the East to the West." He mentioned forty narrators from the people of al-Madīnah al-Munawwarah; twenty one narrators from the people of Makkah al-Mukarramah; and from the people of Kufa he mentioned two hundred and one narrators, among them Imām Abū Ḥanīfah.

He also narrated in *Al-Mustadrak*³¹² the ḥadīth: "There is no marriage (*nikāḥ*) without [the consent of] a guardian (*wali*)."³¹² Following it, he said: "This ḥadīth was transmitted from Abū Ishāq by a group of Muslim Imāms, other than those we have mentioned, including Abū Ḥanīfah an-Nu'mān ibn Thābit. . ."

Abū Ḥanīfah رحمہ اللہ testified that he had collected the knowledge of the people of Kufa, as we recently mentioned, and as others testified about him. Yaḥyā ibn Ādam, one of al-Bukhārī's Shaykhs in his *Ṣaḥīḥ*, said: "In the field of ḥadīth there are abrogating (*nāsikh*) ḥadīths and abrogated

309 'Abd Allāh ibn al-Imām Aḥmad, *Al-'Ilal wa Mā'rifat ar-Rijāl*, Vol. 2, p. 362, (2538).

310 *Al-Hilyah*, Vol. 5, p. 47.

311 In his book: *Mā'rifat 'Ulūm al-Ḥadīth*, p. 240. [Imām Abū Ḥanīfah] is mentioned on p. 245. There is no contradiction between this statement of his and his statement on p. 255, except in the view of a cheater and a fraudster, or a dim-wit with flawed understanding. See this, then refer to: *As-Silsilat aḍ-Ḍa'ifah*, Vol. 1, p. 664.

312 Vol. 2, p. 171.

(*mansūkh*) ḥadīths, just as in the Qur'ān. An-Nu'mān—Abū Ḥanīfah—collected all the ḥadīths of his city. Then he looked at the last thing upon which the Prophet ﷺ left this world, and he followed it. In this, he acted as a jurist (*faqīh*).³¹³

This Yaḥyā ibn Ādam was described by Ya'qūb ibn Shaybah as a jurist through and through (*faqīh al-badan*). In *Siyar A'lām an-Nubulā'*³¹⁴ it is reported from al-Khallāl that he [i.e. Yaḥyā ibn Ādam] "was one of the unique jurists of his era." The likes of [Yaḥyā ibn Ādam] do not acknowledge just anyone, whether in fiqh or ḥadīth.

Aṣ-Ṣaymarī narrated, with his chain of transmission³¹⁵ to al-Ḥasan ibn Ṣāliḥ, a reliable jurist and ardent worshiper, that he said: "Abū Ḥanīfah would thoroughly examine ḥadīths to determine which are abrogating (*nāsikh*) and which are abrogated (*mansūkh*). He would act upon a ḥadīth if he was certain that it was from the Prophet ﷺ and from his Companions. He knew the ḥadīth of the people of Kufa and the fiqh of the people of Kufa, and followed closely the practices of the people of his city." He also said: "He [i.e. Abū Ḥanīfah] would say, 'Regarding the Book of Allāh, there are abrogating (*nāsikh*) [verses] and abrogated (*mansūkh*) [verses]; and regarding ḥadīth, there are abrogating (*nāsikh*) [ḥadīths] and abrogated (*mansūkh*) [ḥadīths].' He preserved well the final practice of the Messenger of Allāh ﷺ, upon which he left this world, from that which reached the people of his city."

To know the importance of knowledge of the rulings upon which the Prophet ﷺ left this world, and upon which legislation was ultimately established, see what Imām az-Zuhri says in *Ṣaḥīḥ Muslim*³¹⁶: "They [i.e. the Companions] would follow the very latest of his orders ﷺ, and consider the abrogating (*nāsikh*) order to be binding."

Consider also what Yaḥyā ibn Ādam himself said³¹⁷: "With the words of the Prophet ﷺ, there is no need for the words of any other. The reason

313 Al-'Alā' al-Bukhārī, *Kashf al-Asrār*, Vol. 1, p. 16. Compare this testimony to the coming testimony of Al-Ḥasan ibn Ṣāliḥ—you will find them completely consistent.

314 Vol. 11, p. 189.

315 *Akhbār Abi Ḥanīfah wa Aṣḥābihi*, p. 11.

316 Vol. 2, p. 785, Chapter: The permissibility of fasting and eating in the month of Ramaḍān for the traveller. . .

317 Al-Ḥākim attributed it to him in *Ma'rifat 'Ulūm al-Ḥadīth*, p. 84, as did al-Khaṭīb in *Al-Faḥḥ wa'l-Mutafaqqih*, Vol. 1, p. 222.

why it was said, "The Sunnah of the Prophet ﷺ, and of Abū Bakr and 'Umar," was so that it would be known to be the Sunnah of the Prophet ﷺ at the time of his death."³¹⁸

The knowledge of Imām Abū Ḥanīfah is not restricted to the ḥadīth of his city, but he was also completely familiar with the ḥadīth of the people of al-Ḥijāz. This was during his days of residence in Makkah al-Mukarramah, for which he left Kufa, as a result of Yazīd ibn 'Umar ibn Hubayrah's urging him to take command of the judiciary, and his refusal to do so, in the year 130/747.³¹⁹ He did not return to Kufa until Abū Ja'far al-Manṣūr took power in the year 136/753. This is not a short period of time in the life of an independent jurist Imām, and in an ocean abounding with knowledge, such as Makkah al-Mukarramah, the refuge of the Islamic world, where scholars and ḥadīth experts are always found, and in particular from among the pilgrims to the sacred House of Allāh, annually.

In addition to this, it has been mentioned among his virtues that he performed fifty five pilgrimages³²⁰, each time meeting the scholars of Makkah and al-Madīnah as well as the other Islamic cities. You will therefore find among his Shaykhs, who were mentioned by al-Ḥāfiẓ aṣ-Ṣāliḥī in *Uqūd al-Jummān* (pp. 64–87), a large number from Makkah, al-Madīnah, and many other cities.

Imām Abū Ḥanīfah did not view as permissible narrating by [general] authorisation (*riwāwayah bi'l-ijāzah*) [i.e. without hearing the text of the ḥadīth from the Shaykh], an opinion similar to that transmitted from Shu'bah ibn al-Ḥajjāj, Imām of his age in the science of discrediting and crediting narrators (*jarḥ wa ta'dīl*), who said on this subject: "If it was correct to grant someone authorization [to narrate a ḥadīth] (*ijāzah*), then the act of journeying [to receive a ḥadīth] (*riḥlah*) would become obsolete."³²¹ How, then, would Abū Ḥanīfah restrict himself to receiving ḥadīths from the Shaykhs of his city when journeying was obligatory in pursuit of ḥadīth?

This is a lengthy topic, which I do not intend to prolong further on

318 See a valuable discussion of this idea in *Al-Istidhkār* (Vol. 1, p. 221–222) and *At-Tamhīd* (Vol. 3, p. 353), both of which are by Ibn 'Abd al-Barr. See also *Sunan al-Bayhaqī al-Kubrā*, Vol. 1, p. 157.

319 Aṣ-Ṣāliḥī, *Uqūd al-Jummān*, p. 312.

320 Ibid. p. 220.

321 As-Suyūṭī, *At-Tadrib*, p. 256 and 257.

such an occasion as this. This dimension of Imām Abū Ḥanīfah was thoroughly discussed by the pious ḥadīth scholar, jurist and researcher, al-‘Allāmah Shaykh Zafar Aḥmad al-‘Uthmānī at-Tahānawī, who died at the end of the year 1394/1974, may Allāh Most High have mercy on him, in his book: *Injā’ al-Waṭan ‘an Izdirā’ bi Imām az-Zaman*. It contains many aspects related [about Imām Abū Ḥanīfah] which collectively are not found in other works.’

Furthermore, a serious technical study has been published with the title *Makānat al-Imām Abī Ḥanīfah bayna’l-Muḥaddithīn*, by Dr. Muḥammad Qāsim al-Ḥārithī. In six hundred pages, it includes content which is excellent, new, successful and supported by evidence.

After this, will some who are infirm still dare to criticise this Imām?

Despite this, we all agree that Abū Ḥanīfah, by himself, did not collect the Sunnah in its entirety. The same can be said of Mālik, Aḥmad, ath-Thawrī, al-Layth ibn Sa’d, and al-Awzā’ī—by themselves. May Allāh be pleased with them all.

There is no harm in mentioning examples of how a small portion of the Sunnah escaped some of the Imāms:

Example 1: It is the view of Imām Abū Ḥanīfah that if a person makes an endowment (*waqf*), he is not obliged to fulfil it. In fact, it is permissible for him to withdraw from it, except if it comes from him in the form of a bequest, or if the judge (*qāḍī*) rules it. For Abū Ḥanīfah, no evidence was established for the endowment being enforced.

He was opposed in this by most of his students and by the other Imāms, who viewed the endowment as enforced. The ruling in the Ḥanafī school of law is according to the position of Abū Ḥanīfah’s students; that the endowment is obligatory.

“‘Isā ibn Abān said: ‘When Abū Yūsuf arrived in Baghdād, he was following Abū Ḥanīfah’s opinion about [the permissibility of] selling endowments (*bay’ al-awqāf*), until Ismā‘īl ibn ‘Ullayyah narrated to him from Ibn ‘Awn, from Nāfi’, from Ibn ‘Umar, about ‘Umar giving his portion of [the booty] from the Battle of Khaybar as alms (*sadaqah*). At this, Abū Yūsuf said, ‘This does not allow for contradiction. If this were made known to Abū Ḥanīfah, he would support it, not contradict it.’”³²²

322 Al-‘Allāmah al-Kawtharī, *An-Nukat at-Tarīfah*, p. 40. See also, for the revision of the

Example 2: In *Taqdimat al-Jarḥ wa’t-Ta’dīl*³²³, by Ibn Abī Ḥātim ar-Rāzī, the author narrated, with his chain of transmission to Imām ‘Abd Allāh ibn Wahab, one of the greatest students of Imām Mālik, that he said: “I heard someone ask Mālik about running the fingers (*takhlīl*) between the toes during ablution (*wuḍū’*). He said, ‘This is not obligatory for the people.’ I left him until the people thinned—i.e. left—and then I said to him, ‘We have a sunnah about this.’ He asked, ‘What is it?’

I said, ‘Al-Layth ibn Sa’d, Ibn Lahī’ah, and ‘Amr ibn al-Ḥārith narrated to me, from Yazīd ibn ‘Amr al-Ma’āfirī, from Abū ‘Abd ar-Raḥmān al-Ḥubulī, from al-Mustawrid ibn Shaddād al-Qurashī, who said: ‘I saw the Messenger of Allāh ﷺ rub with his little finger between his toes.’

He [Mālik] said: ‘This ḥadīth is sound (*hasan*)³²⁴, and yet I have never heard it until now.’ Thereafter I heard him questioned [on the same issue], and he enjoined running the fingers (*takhlīl*) between the toes.” Ibn ‘Abd al-Barr, in *Al-Istidhkār*³²⁵, added: “Mālik started to observe this in his ablution (*wuḍū’*).”

Example 3: Aḥmad ibn Ḥanbal said: “Ash-Shāfi‘ī told us, ‘You are more knowledgeable about ḥadīth and narrators than me. If there is a ḥadīth, inform me of it, whether the narrator is from Kufa, Basra, or the Levant (ash-Shām), so that I can adhere to it if it is rigorously authenticated.’”³²⁶

The following appears in the book *Al-Amr bi’l-Ma’rūf wa’n-Nahī ‘an al-Munkar*³²⁷, by Imām Abū Bakr al-Khallāl, one of the Imāms of the Ḥanbalīs, who died in the year 311/923:

“The Chapter of Reciting at Graves. Al-‘Abbās ibn Muḥammad ad-Dūrī narrated to us, from Yaḥyā ibn Ma’in, from Mubashshir al-Ḥalabī, from

Imām’s opinion on the issue of the endowment (*waqf*), a lengthy and valuable discussion which is thoroughly useful and meticulous, by Mawlānā Zafar Aḥmad al-‘Uthmānī, in *I’lā’ as-Sunan*, Vol. 13, pp. 96–127; he treats the story of ‘Isā ibn Abān on p.102.

323 P. 31.

324 Imām az-Zarakshī reported this story in *An-Nukat ‘alā Ibn aṣ-Ṣalāh*, 21/b. He advanced it to prove that the ḥadīth was reported as sound in the discussions of the generation preceding the Shaykhs of al-Bukhārī and Aḥmad. He transmitted it via Abū’l-Ḥasan ibn al-Qaṭṭān, reporting that Ibn al-Qaṭṭān said: “Its chain of transmission (*isnād*) is rigorously authenticated (*ṣaḥīḥ*).”

325 Vol. 1, p. 18.

326 Imām Aḥmad, *Al-‘Ilal*, Vol. 1, p. 155; and al-Bayhaqī, *Manāqib as-Shāfi‘ī*, Vol. 1, p. 528.

327 P. 121 from the Egyptian edition. Imām Ibn al-Qayyim also cited it in *Kitāb ar-Rūḥ*, p. 31. He also attributed it to al-Khallāl, in his book: *Al-Jāmi‘*, so perhaps the text appears in both books? Or perhaps *Al-Amr bi’l-Ma’rūf* is one of the chapters in *Al-Jāmi‘*?

‘Abd ar-Raḥmān ibn al-‘Alā’ ibn al-Lajlāj, from his father, who said: ‘When I die, put me in the tomb (*lahd*) and say, ‘In the name of Allāh and according to the Sunnah of the Messenger of Allāh’ (*Bismillāh wa ‘alā sunnati rasūl illāh*). Shape the earth over me and recite at my head the Opening Chapter of the Book (*Fātiḥat al-Kitāb*), and the beginning and end of Sūrah al-Baqarah, for indeed I heard ‘Abd Allāh ibn ‘Umar say that.’

‘Abbās ad-Dūrī said: ‘I asked Aḥmad ibn Ḥanbal, ‘Have you preserved anything about recitation at the graves?’ He said, ‘No.’ I asked Yahyā ibn Ma‘īn and he narrated to me this ḥadīth.”

Then al-Khallāl said: “Al-Ḥasan ibn Aḥmad al-Warrāq said, ‘Alī ibn Mūsā al-Ḥaddād—who was truthful and under the guidance of Ibn Ḥammād al-Muqri’—narrated to me, saying: ‘I was with Aḥmad ibn Ḥanbal and Muḥammad ibn Qudāmah al-Jawharī, at a funeral (*janāzah*). When the deceased was buried, a blind man sat and recited at the grave, at which Aḥmad said to him, ‘So-and-so, recitation at the grave is an innovation (*bid‘ah*)!’

When we left the graves, Muḥammad ibn Qudāmah said to Aḥmad ibn Ḥanbal, ‘Oh Abū ‘Abd Allāh, what is your opinion of Mubashshir al-Ḥalabī?’ He replied, ‘Reliable.’ [Muḥammad ibn Qudāmah] then asked, ‘Have you written anything from him?’ [Aḥmad ibn Ḥanbal] replied, ‘Yes, I said: Mubashshir narrated to me from ‘Abd ar-Raḥmān ibn al-‘Alā’ ibn al-Lajlāj, from his father, that he willed that when he was buried, the beginning and end of Al-Baqarah should be recited at his head; and that he said, ‘I heard Ibn ‘Umar will this.’

So Aḥmad said to him, ‘Go back and tell the man to recite.”

Further Examples: In al-Ḥāfiẓ ibn Ḥajar’s responses to the ḥadīths of *Mishkāt al-Maṣābiḥ* (appended at the end of *Mishkāt al-Maṣābiḥ*³²⁸), which Sirāj ad-Dīn al-Qazwīnī claimed had been fabricated (*mawḍū‘*), Ibn Ḥajar transmitted from ‘Alī ibn Sa‘īd an-Nasā’ī [who said]: “I asked Aḥmad about the Prayer of Glorification of Allāh (*Ṣalāt at-Tasbīḥ*). He said, ‘Nothing about it is rigorously authenticated according to me.’ I said, ‘[What about] Al-Mustamirr ibn ar-Rayyān, from Abū l-Jawzā [not al-Ḥarīrā] from ‘Abd Allāh ibn ‘Amr?’ He said, ‘Who narrated to you?’ I replied, ‘Muslim ibn Ibrāhīm.’ He said, ‘Al-Mustamirr is reliable,’ and it seemed that he was

328 Vol. 3, (1779–1780).

surprised.” The citation ends here. This quote from Aḥmad necessitates that he thereafter regarded the Prayer of Glorification as recommended.

Ibn al-Jawzī, in *al-Ilal al-Mutanāhiyah*³²⁹, narrated from six Companions the ḥadīth: “Pray behind every pious person and sinner.” He narrated it from a number of different chains of transmission, reaching thirteen. He classified all of them as weak (*ḍa‘īf*), and concluded with the words of Imām Aḥmad: “We have never heard of this!”

In *Al-Ilal wa Mārifat ar-Rijāl*, by Abū Bakr al-Marrūdhī, it is cited about Imām Aḥmad³³⁰: “Abū ‘Abd Allāh [Imām Aḥmad] was asked about Abū aṣ-Ṣalt—‘Abd as-Salām ibn Ṣāliḥ al-Harawī. He said, ‘He narrated rejected (*manākīr*) ḥadīths.’ It was said to him, ‘He narrated the ḥadīth of Mujāhid, from ‘Alī: “I am the city of knowledge and ‘Alī is its door.” He said, ‘We have not heard of this.’ It was said to him, ‘Is this what you reject from him?’ He replied, ‘Not this. This, we have not heard of.”

This was despite the fact that its chains of transmission are many and should at least establish a basis for the ḥadīth, as al-Ḥāfiẓ [ibn Ḥajar] said, in *Al-Lisān*³³¹. In fact, when asked about the ḥadīth in a specific fatwā, he classified it as sound (*ḥasan*). As-Suyūṭī quoted his statement in *Al-La‘ali*³³², and preceded it by quoting the words of al-Ḥāfiẓ al-‘Alā’ī. This apparently shows that he considered it authenticated due to being supported by other ḥadīths (*ṣaḥīḥ li ghayrihi*). After them, as-Sakhāwī classified it as sound, in *Al-Maqāsid*.³³³

These are examples of how one ḥadīth—or more—escaped the notice of individual Imāms. These oversights were corrected for them by some of their students, either during their lifetime or after their death. There is no shame in this, considering its rarity, since no one individual can have comprehensive knowledge of the entire Prophetic Sunnah, and perfection is for Allāh Almighty.

Confronting this Reason for differences of opinion among the Imāms [i.e. due to their varying degrees of acquaintance with the Sunnah] are

329 Vol. 1, p. 418–425.

330 (308).

331 Vol. 3, p. 123.

332 Vol. 1, p. 334.

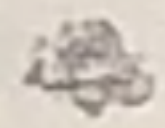
333 (189).

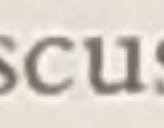
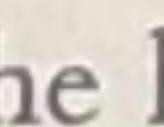
three areas of doubt which intersect it. However, before proceeding to these, I will answer a question which may have occurred to some people.

This question is: Why did you leave this reason for last?

And the answer: I made it the last of the reasons deliberately and intentionally, in the knowledge that many people frequently discuss it and mention it in their books as the first reason. When confronted with a ḥadīth which one of the Imāms refrained from acting upon, they immediately say: 'He was not aware of it. If he had been aware of it, he would have advocated it. No one individual by himself can have comprehensive knowledge of the entire Prophetic Sunnah.'

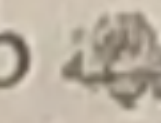
For my part, however, my amazement fails to cease regarding these people, for two reasons:

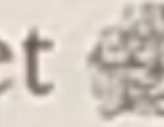
The first reason is that they have not studied the books of the Imām thoroughly and fully in order to attain the slightest evidence that he was unaware of [the ḥadīth] and therefore advocated contrary to it. I have heard regarding a person from the people of knowledge that he would say: 'Abū Ḥanīfah was unaware of the ḥadīth: "There is no prayer (*ṣalāh*) without [recitation] of the Opening Sūrah of the Book (*Fātiḥat al-Kitāb*)", despite the fact that he  narrated it in his famous *Musnad*, which has been printed many times, and is available and commentated upon!

Our great Shaykh, al-ʿAllāmah al-Muḥaqqiq Muḥammad Bakhīt al-Muṭīʿī ³³⁴, said, whilst discussing the ḥadīth: "The child belongs to the bed [i.e. if a child is born out of wedlock, it is never attributed to the adulterer, but always to the husband with whom the woman shares a bed (*firāsh*)]. . .": "Al-Ghazālī said: 'This ḥadīth did not reach Abū Ḥanīfah. If it had, he would not have excluded the slave-girl with whom intercourse has taken place (*al-amat al-mawṭū'ah*) [who, according to Abū Ḥanīfah, is not considered a *firāsh*]. This was explicitly stated by Imām al-Ḥaramayn [al-Juwaynī]." He then said, a few lines later: "Al-Kamāl ibn al-Humām said: 'This is all due to their lack of study of the position of Imām Abū Ḥanīfah . The claim that the ḥadīth did not reach him is incorrect, since it is mentioned in his *Musnad*."

I confirm that this is the case. It is the last ḥadīth in the Book of Marriage (*Kitāb an-Nikāḥ*), according to the arrangement of the ḥadīth

334 Al-Isnawī, *Sullam al-Wuṣūl li Sharḥ Nihāyat as-Sūl*, Vol. 2, p. 480.

scholar, Shaykh Muḥammad ʿĀbid as-Sindī of the Imām's *Musnad*, and which was commentated upon by as-Shaykh Muḥammad Ḥasan as-Sanbahlī in *Tansīqan-Nizām*³³⁵. Abū Ḥanīfah narrated it from his Shaykh, Ḥammād ibn Abī Sulaymān, from Ibrāhīm an-Nakhāʿī, from al-Aswad ibn Yazīd, from ʿUmar ibn al-Khaṭṭāb . This is a chain of transmission composed successively of the jurist Imāms of Kufa to ʿUmar.

In Imām Abū Bakr al-Ismaʿīlī's *Muʿjam Shuyūkh*³³⁶ it is narrated: "From ʿAbd Allāh ibn Maʿūd, concerning someone who is in a state of major ritual impurity (*junub*) when dawn comes upon him, that in his opinion it is permissible for him to fast. Sufyān [ath-Thawrī] said that Ibrāhīm [an-Nakhāʿī] used to say: 'He will have to make it [i.e. the fast] up' (*yaqḍī*). Sufyān was astonished by Ibrāhīm's opinion! Then Ḥafṣ ibn Ghiyāth said to him: 'Perhaps Ibrāhīm did not hear the ḥadīth of the Prophet , that the dawn would come upon him while he was in a state of major ritual impurity (*junub*), meaning he would then fast.' Sufyān said: 'On the contrary. Ḥammād [ibn Abī Sulaymān] narrated to us, from Ibrāhīm an-Nakhāʿī, from al-Aswad ibn Yazīd, from ʿĀʾishah."

Contemplate and take heed of how [Ḥafṣ ibn Ghiyāth] assumed that an-Nakhāʿī was unaware of the ḥadīth, and thus made a mistake [in this assumption].

Even if someone claims that he has thoroughly investigated all the books of the Imām, without finding this particular ḥadīth, this does not make it permissible for him to deny that he had knowledge of it. Do you not see that if you searched for a particular rigorously authenticated ḥadīth in the books of al-Bukhārī and Muslim, without finding it therein, that it would not be permissible for you to deny their knowledge of it, saying: 'This rigorously authenticated ḥadīth was not known to the two great Imāms, al-Bukhārī and Muslim'? What great knowledge you must have, then! And what an Imām you must be!

The second reason [for my amazement regarding these people] is that denying an Imām's knowledge of a ḥadīth is pure conjecture and a spreading of rumours about one of the Imāms of the Muslim Ummah without knowledge, evidence or proof. Did this Imām say to him: 'I was not aware of this ḥadīth'?

335 See p. 137.

336 Vol. 1, pp. 323-324.

This is why delaying discussion of this reason [for differences of opinion amongst the Imāms] was natural, and necessitated by scholarly logic and Islamic etiquette towards the Imāms.

It is more appropriate for a rational Muslim to accuse himself, than to act as though he is above the Imāms, accusing them of lacking knowledge of something which the likes of him have knowledge of! How beautiful is what Imām al-Bayhaqī related, in *Manāqib ash-Shāfiʿī*³³⁷, about Imām Aḥmad ibn Ḥanbal ʿ!.

He said: "Humayd ibn Aḥmad al-Baṣrī said: 'I was with Aḥmad ibn Ḥanbal and we were studying an issue, when a man said to Aḥmad, 'Abū 'Abd Allāh, there is no rigorously authenticated ḥadīth about it!' He [Aḥmad] replied, 'If there is no rigorously authenticated ḥadīth about it, then there is ash-Shāfiʿī's opinion on it. His evidence is the soundest thing regarding it.'"

Imām Aḥmad then followed what he had said by telling the man a story which had happened to him with ash-Shāfiʿī, which testifies that if ash-Shāfiʿī advocated an opinion, it was prerequisite for him to have proof from the Sunnah. However, this proof might be concealed. Concealed from whom? From such as Imām Aḥmad! May Allāh be pleased with them both.

[Imām Aḥmad] said: "I said to ash-Shāfiʿī, 'What is your opinion on such and such an issue?' He answered. Then I said, 'Where is your opinion from? Is there a ḥadīth or a reference from the Book [of Allāh] about it?' He replied by producing a ḥadīth on the matter, which was an explicitly worded (*naṣṣ*) ḥadīth." That is, its intended meaning was explicit, such that its wording did not support any other interpretation.

This is an example of lofty etiquette from Imām Aḥmad, which it befits—with greater reason—every Muslim to adorn himself with.

Consider also another situation involving Imām Aḥmad ʿ, in which he instructs others as to the proper etiquette towards the Imāms.

It appeared in *Tahdhīb al-Tahdhīb*³³⁸, in the biography of Ishāq ibn Ismāʿīl at-Ṭālqānī, a reliable narrator, among those praised by Imām Aḥmad, although he reproached him for his treatment of Imām 'Abd ar-Raḥmān

337 Vol. 2, p. 154.

338 Vol. 1, p. 226.

ibn Maḥdī, and others. Imām Aḥmad said: "It has come to my attention that he queries 'Abd ar-Raḥmān ibn Maḥdī. How astonishing!" He—Imām Aḥmad—then said furiously: "What is wrong with you? Woe to you for querying the Imāms!"

I feel that it is appropriate to close this topic with the words of some of the Imāms regarding it.

Imām Abū'l-Ḥasan al-Qābisī al-Mālikī, who died in the year 403/1012³³⁹, said: "It is improper for someone who becomes aware of the authenticity of the ḥadīth's chain of transmission and the authenticity of the wording, to engage in its interpretation (*ta'wīl*), or to apply the explicit text [of the ḥadīth] in lawful or unlawful [matters]—unless based on knowledge, [since this knowledge required] is other than knowledge of narration. This is acquired through questioning those who have knowledge of fiqh, knowledge of the Sunnah and complete knowledge of the conduct (*ṣīrah*) of the Imāms. For within the body of ḥadīth there are abrogating (*nāsikh*) ḥadīths and abrogated (*mansūkh*) ḥadīths, and it is not permitted to apply abrogated ḥadīths, once they have been abrogated."

The ḥadīth has meanings which are known to the scholars, [but this issue] requires another time and place to be explained comprehensively. The words of the Prophet ʿ in his sermon (*khutbah*) during the Farewell Pilgrimage (*Ḥajjat al-Wadā'*) will suffice as an explanation of what I have described to you. They are [found in] an established (*thābit*) narration: "Let those who are present inform those who are absent, for the one who is present may inform someone who has deeper understanding of it."

Imām at-Taḥī as-Subkī spoke at length in his work, *Ad-Durrat al-Muḍīyyah*³⁴⁰, from which I will cite a selection of short excerpts that will not distract the reader from the topic at hand.

He ʿ said: "People are divided into two categories: the scholar and independent jurist, who is adept at deriving rulings (*aḥkām*) from the Book and the Sunnah; and the lay person, who is a follower (*muqallid*) of the people of knowledge. The role of the independent jurist, if a matter occurs, is to derive a ruling regarding it from the canonical sources of evidence (*adillah shariyyah*), just as the role of the ordinary person is to

339 In the Introduction to his book, *Al-Mulakhkhaṣ* (pp. 47–48), in which he arranged *Al-Muwaffa'* according to the narration of Ibn al-Qāsim.

340 Pp. 20–25.

refer to what the scholars have said about it. It is not for anyone other than the independent jurist, on hearing an āyah of the Qur'ān or a ḥadīth, to discard what the scholars have said as a result. If he sees that they have contradicted it, despite their knowledge of it, he knows that they have only contradicted it due to evidence which led them to do so. Allāh Most High said:

﴿فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ﴾

Ask Ahl adh-Dhikr [i.e. the scholars] if you do not know (16:43).

The meaning of this is that if the scholar who is not an independent jurist—and even more so the general populace—hears a verse (āyah) of the Qur'ān or a ḥadīth which has a sense of generality or absoluteness, it is not for him to adopt this generality or absoluteness, without the scholars [i.e. Imāms] saying so. No one should act upon generalities and absolutes, except those with knowledge of the abrogating and the abrogated (*an-nāsikh wa'l-mansūkh*), the general and the specific (*al-'āmm wa'l-khāṣṣ*), the absolute and the restricted (*al-muṭlaq wa'l-muqayyad*), the summarised and the explained (*al-mujmal wa'l-mubayyan*), and literal and figurative expression (*al-ḥaqīqah wa'l-majāz*)."

He cited examples of this from the Noble Book and Sunnah, filling approximately two pages, and then said: "This clarifies that acting upon something directly, without examining the evidence as to whether it is specific or restricted, is a mistake by the person acting upon it. . . If he acknowledges that it is not appropriate for him to act upon generalities without knowing whether there is a specific stipulation in this context, and without knowing what contrary evidence exists, then he will entrust the matter to those qualified to deal with it. He will also know that above every person of knowledge, there is someone more knowledgeable. Similarly, it is not appropriate for him to follow the evidence of the Book [of Allah], without knowing what exists within the Sunnah which explains it, makes it specific, or restricts it. Allāh Most High said:

﴿وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ﴾

And We have revealed the *Dhikr* [i.e. the Qur'ān] to you so that you may clearly explain to men what was revealed to them. . . (16:44).

He went on: "So whoever is not acquainted with the Book, the Sunnah and the opinions of the Imāms, it is not for him to adopt a proof which he has heard, without an Imām to guide him."

The scholars have said a great deal on this topic. The principle that anyone who is not an independent jurist is a lay person and follower [of an Imām] (*muqallid*), is found at the end of books on the principles of jurisprudence (*uṣūl*). You will also find it dispersed amongst what they [i.e. the scholars] say in their other books.

The three areas of doubt which intersect with this [Fourth] Reason [for differences of opinion amongst the Imāms due to their varying degrees of acquaintance with the Sunnah] are:

First—One might say: Once you have proven that some [aspects of the Sunnah] escaped the Imāms, you leave them open to the claim that something else may have escaped them regarding this issue, and something else regarding a third issue, and a fourth. . . and so on. In this case, let us investigate the evidence for ourselves, so as to have peace of mind in our affair.

The answer to this is:

If some tiny, minor detail [of the Sunnah] escaped the notice of one of the Imāms, then his students were aware of it, and his school of law was consolidated and finalised at the hands of a large group of his students. For example, Abū Yūsuf and Muḥammad from the students of Abū Ḥanīfah, al-Muzanī and al-Buwayṭī from the students of ash-Shāfi'ī, Ashhab and Ibn al-Qāsim from the students of Mālik, and others like them from the students of Aḥmad. May Allāh be pleased with them all.

If this negligible detail escaped him—and he is an independent jurist Imām of the golden age of Islām—then many a major detail must escape the follower (*muqtadī*) of later times and later generations, to a greater extent and more so.

And if an insignificant portion [of the Sunnah] has escaped the Imām, which is so rare that it is impossible to give examples, then it is intellectually and academically illogical to judge the whole in light of the exception; rather logic dictates that we judge the exception in light of the whole.

This means we do not say: "The Imām was not aware of this ḥadīth, and therefore gave such-and-such ruling on such-and-such issue, thus it is conceivable that he was also unaware of this [other] ḥadīth, and therefore

gave this ruling on this other issue.' In this manner, the possibility [of his being unaware of a particular ḥadīth] would apply to all the Imām's rulings, and we would therefore build ourselves a new fiqh, independent of all the Imāms, since there is nothing to discriminate between one Imām and another, based on this possibility.

Rather, we say: 'The Imām was aware of the evidence pertaining to such-and-such issue, and gave the required ruling. He was also aware of the evidence pertaining to a second issue, and gave his opinion on it. And so on, for thousands of issues³⁴¹. However, in the case of this issue in particular—which is one issue from thousands—he was not aware of the evidence pertaining to it. We therefore abstain from judging it, since we are certain that he was aware of other evidences besides this, which are innumerable.

I ask the fair and honourable reader to read these words impartially and deliberately, then to read what I will quote from some of [those who criticize following the Imāms], to see how the course of discussion and thought is transformed. One of them said: "First and foremost we are obligated to follow the Book and the Sunnah, and to hold them in the highest esteem. . . So if we find that the opinion of one of these Imāms contradicts the Book of Allāh and the Sunnah of His Messenger ﷺ, it is then incumbent upon us, and upon all whom this reaches, to discard the opinion of the Imām, in favour of the words of Allāh and his Messenger. For these Imāms did not attain comprehensive knowledge of the entire Sunnah, and there are numerous things which escaped their notice. . ." It is enough to draw attention to this sermonising, without responding to it!³⁴²

341 Al-Kawtharī ﷺ, in the Introduction to his book: *An-Nukat at-Tarīfah* (p. 4), mentioned that the smallest figure for the estimated number of issues ruled upon in the fiqh of Abū Ḥanīfah is 83,000! What, then, is the proportion of issues the evidence for which was concealed from the Imām, relative to this huge number?!!

In *Tārīkh Abī Zur'ah ad-Dimashqī* (Vol. 1, p. 263), it is reported that al-Awzā'i responded to some 70,000 issues. Al-Khalīlī, in *Al-Irshād* (Vol. 1, p. 198), said: "Al-Awzā'i responded to 80,000 fiqh issues, from what he had memorised."

Do not let these huge numbers boggle you, for al-Bāghandī—who is an Imām of ḥadīth, not of fiqh—said: "I responded to 300,000 issues in the ḥadīth of the Messenger of Allāh ﷺ!"

Al-Qaṣṭallānī, in *Laṭā'if al-Ishārāt* (Vol. 1, p. 95), said: "Al-Aṣma'i said: 'I asked him'—meaning Abū 'Amr ibn al-A'lā', the Imām of methods of Qur'ān recitation (*Qir'at*) and Arabic—about 800,000 issues in poetry, Qur'ān and Arabic, to which he responded as if he were inside the minds of the Arabs!!"

342 Muḥammad 'Id 'Abbāsī, *Ḥaḡiaqt at-Ta'yīn li Madhhab al-A'immat al-Araba'ah al-Mujtahidin*, p. 66, extracted from his *Bid'at at-Ta'aṣṣub al-Madhhabī*.

Second [of the three areas of doubt which intersect the Fourth Reason]—Some people say: 'There are many books on the Sunnah today and they are more easily available to researchers today than they were to their predecessors. Their content is also more accessible than in previous times, due to the quality of printing and indexes. It is therefore easy to use them and to take from them what is established, discarding everything else; to confirm fiqh rulings which have been proven by evidence, and to correct fiqh for which there is no evidence.'

The answer to this comprises a number of aspects:

1. This is a statement of considerable ignorance. It was said in the past:

Many a Shaykh owns great books

Yet knows not what spreads their pages [i.e. their contents]

It was also said:

Knowledge is not what the book bag contains

It is but what the heart knows

The condition of our scholars, without exception, was as Ibn Ḥazm ﷺ expressed it:

If you burn the paper you will not burn

What is on the paper; for it is in my heart.

It comes with me, wherever my mounts convey,

It dismounts when I dismount and will be buried in my grave.

In *Al-Faqīh wa'l-Mutafaqqih*, al-Khaṭīb³⁴³ said: "It was said to one of the wise: 'So-and-so has collected many books!' He replied: 'Does his understanding match the number of his books?' It was answered: 'No.' He said: 'Then he has done nothing. What will a beast do with [an abundance of] information?' A man said to another man, who had written but did not know anything of what he had written: 'You have gained nothing from your writing, but excessive tiredness, long sleeplessness, and scribbled-on paper.'"

343 Vol. 2, pp. 158–159.

Ibn Taymīyah رحمہ اللہ, in *Raf' al-Malām*³⁴⁴, said: "If we suppose that the ḥadīth of the Messenger of Allāh ﷺ were restricted therein"—i.e. in written collections—[we must consider that] the scholar does not know everything that is in each book. Hardly anybody achieves this. Indeed, a man may have many written collections (*dawāwīn*), without having comprehensive knowledge of what is in them. In fact, those who lived before these written collections were compiled were far more knowledgeable about the Sunnah than those who came later. . . Their written collections were their hearts, which contained several times as much as the written collections. There is no doubt in this matter, for those acquainted with the issue."

2. Our Imāms, despite the great amount which they wrote, and the easy availability of that which has reached us from their legacy, were not in the practice of writing down much of what they memorised. This can be seen, a few lines above, in the words of Imām Ibn Taymīyah, and the words of al-Layth ibn Sa'd and Aḥmad ibn al-Furāt which preceded it³⁴⁵. This is a tiny, insignificant portion of what the Imāms have said and reported, which it is not feasible to investigate here.

Bear also in mind Imām al-Bāghandī's previous remark³⁴⁶: "I responded to 300,000 issues in the ḥadīth of the Messenger of Allāh ﷺ!"

3. The longest book of the Sunnah today is *Kanz al-'Ummāl*, by al-Muttaqī al-Hindī, which contains more than 46,000 ḥadīths. However, utilising it in the manner described above is not easy, since many of its sources are difficult to trace, as is verification of its chains of transmission (*asānīd*). As such, the matter remains dependent on determining its chains of transmission.

4. The number of ḥadīths in *Kanz al-'Ummāl* is far fewer than the ḥadīths which the independent jurist Imāms are cited as having received and heard, albeit with many repetitions. It has already been mentioned that the number of ḥadīths reported by Imām Abū Ḥanīfah in his works is some 70,000 ḥadīths, apart from what he did not mention. It was also mentioned previously that he selected only his book, *Al-Āthār*, from 40,000 ḥadīths!

344 P. 18.

345 Comments, p.166.

346 Comments, p. 184.

It was cited previously³⁴⁷ from Ibn al-Hayyāb that Imām Mālik narrated 100,000 ḥadīths, other than what he received but did not narrate. It is also well known that Imām Aḥmad selected his *Musnad* from around 750,000 ḥadīths!

In *I'lām al-Muwaqqi'in* it is reported that a man asked Imām Aḥmad رحمہ اللہ: "If a man preserves 100,000 ḥadīths, is he a jurist (*faqīh*)?" 'No,' the Imām replied. 'What about 200,000?' he asked. 'No,' he replied. 'What about 300,000?' he asked. 'No,' he replied. 'What about 400,000?' he asked. The Imām replied, gesturing thus with his hand." That is, perhaps he would be fit to be an independent jurist (*faqīhan mujtahidan*) who could give opinions on legal matters.

Al-Khaṭīb, in *Al-Jāmi'*, reported with his chain of transmission to Yahyā ibn Ma'in, who had been asked: "Can a man who has preserved 100,000 ḥadīths give opinions on legal matters (*yufṭī*)?" 'No,' he replied. 'And 200,000?' I asked. 'No,' he replied. '300,000?' I asked. 'No,' he replied. '300,000?' I asked. 'I expect so,' he replied."

Al-Khaṭīb commented on this, saying: "It is not enough for him, if he appoints himself to give legal opinions, to collect in books all that Yahyā [ibn Ma'in] mentioned, without knowing, studying, and mastering it. For knowledge is a matter of understanding (*fahm wa dirāyah*), it is not a great number of narrations."

In fact, Ibn Taymīyah at-Taḥqīq رحمہ اللہ transmitted this number from Imām Aḥmad himself, in *Al-Musawwadah*³⁴⁸.

We do not deny that included in these great numbers are ḥadīths which are attributed to a Companion (*mawqūf*); ḥadīths attributed to a Follower (*maqtū'*); and ḥadīths with numerous chains of narration [i.e. one ḥadīth being reported with numerous chains]. Nevertheless, the disparity remains great [i.e. between the number of ḥadīths in contemporary collections, such as *Kanz al-'Ummāl*, and the number of ḥadīths which the Imāms are cited as having preserved]. Moreover, the *mawqūf* narrations and those with repeated chains of transmission—which are not, generally, free from changes in the wording of the ḥadīth—have a significant influence on how the ḥadīth is understood and contextualized.

347 P. 166.

348 P. 514.

5. If we suppose that this great collection of ḥadīths was made available, the differences of opinion between the Imāms would continue to exist, as long as the other reasons for their differences of opinion continued to exist. These have a far greater influence upon their differences of opinion than this Fourth Reason, which we are currently discussing.

In the following story—and in many others—there is a lesson for those who reflect.

Ar-Rāmuḥurmuzī, in *Al-Muḥaddith al-Fāsil*³⁴⁹, narrated that: “A woman stopped at a gathering (*majlis*) which included Yahyā ibn Maʿīn, Abū Khaythamah, and Khalaf ibn Sālim, in a group which was studying ḥadīth. She heard them say, ‘The Messenger of Allāh ﷺ said;’ ‘I heard the Messenger of Allāh ﷺ;’ and ‘so-and-so narrated it, and no one narrated it other than him’. The woman asked them about whether it is correct for the menstruating woman (*ḥā'id*) to perform ritual washing (*ghusl*) of the dead—as she was someone whose role it was to perform this ritual washing. None of them answered her, and they began to look at one another. Then Abū Thawr approached, and she was told: ‘Ask the one coming.’ So she turned towards him, when he was close to her, and asked him. He replied: ‘Yes, it is permissible for her to perform ritual washing of the dead, according to the ḥadīth of ‘Uthmān ibn al-Aḥnaf, from al-Qāsim, from ‘Ā'ishah, that the Prophet ﷺ said to her: “Regarding your menstruation (*ḥayḍ*), it is not in your hands”. Also, according to [‘Ā'ishah’s] saying: “I would part the hair of the Messenger of Allāh ﷺ with water, whilst I was menstruating.” Abū Thawr said: ‘If she would part the hair of the living with water, then this is all the more [applicable] to the dead.’

They [i.e. the rest of the group] said: ‘Yes. So-and-so narrated it, and we know it via such-and-such a chain of transmission.’ They became absorbed in chains of transmission and narrations. So the woman said, ‘Where were you [until] now, then?’”

It is very well known that Imām Aḥmad would invite to the gatherings of Imām ash-Shāfiʿī, in order to benefit from his deep understanding and his narration, his peers and counterparts from the Imāms of ḥadīth, who were deeply involved in acquiring (*taḥammul*) and discharging (*adā'*) ḥadīth; journeying in pursuit of ḥadīth (*riḥlah*) and narrating them; and

349 P. 249; and via him: al-Khaṭīb, *Al-Faqīh wa'l-Mutafaqqih*, Vol. 2, p. 88.

who were not interested in fiqh. He would invite Ishāq ibn Rāhawayh, Yahyā ibn Maʿīn, al-Ḥumaydī—and others. Each of these was a master of ḥadīth in terms of memorisation (*ḥifẓ*), comprehensiveness (*istifāb*) and criticism (*naqd*)³⁵⁰. If knowledge of the noble ḥadīth alone, were enough—as some people portray it to those who are new to Islamic learning—then there would have been no grounds for Imām Aḥmad’s inviting them! Indeed, his continuous companionship of Imām ash-Shāfiʿī would not have benefitted him at all! Especially since he could see that ash-Shāfiʿī himself would sometimes refer to him about a matter of the Sunnah, saying to him: “You are more knowledgeable about ḥadīth and narrators than I am. So if the ḥadīth is rigorously authenticated, inform me, whether it is from Kufa, Basra, or the Levant (ash-Shām), so that I may adopt it if it is rigorously authenticated.”³⁵¹

6. If we also suppose that the existing ḥadīths are sufficient for formulating independent legal opinions—as was the reality for Ibn Maʿīn and others—this does not mean that the availability of the ḥadīths alone is enough to do so. Where are the other conditions for *ijtihād*? That is, the independent jurist having attained proficiency in all the Islamic sciences, their methods and aims. This was summarised by Imām ash-Shāfiʿī, in what al-Khaṭīb narrated from him in *Al-Faqīh wa'l-Mutafaqqih*³⁵².

Imām ash-Shāfiʿī said: “It is not permitted in the religion of Allāh for anyone to deliver a legal opinion (*yufṭī*), except for someone who knows well the Book of Allāh: its abrogating (*nāsikh*) and abrogated (*mansūkh*) verses; its decisive (*muḥkam*) and vague (*mutashābih*) verses; its interpretation (*ta'wīl*) and cause of revelation (*tanzīl*); what was revealed in Makkah, and what was revealed in al-Madīnah; the intended meaning; and what the revelation concerned³⁵³. Furthermore, he must be proficient in the

350 See *Ādāb ash-Shāfiʿī wa Manāqibuhu*, p. 43, and al-Bayhaqī, *Manāqib ash-Shāfiʿī*, Vol. 2, p. 252; see also p. 58 from the former, or Vol. 1, p. 399 from the latter.

351 *Ādāb ash-Shāfiʿī wa Manāqibuhu*, p. 95.

352 Vol. 2, p. 157.

353 One of the matters associated with the Qurʾān which is incumbent upon him is: proficiency in the differing methods of recitation (*Qirāʾāt*). Al-ʿAllamah al-Qaṣṣālānī, in *Laṭāʾif al-Ishārat* (Vol. 1, p. 171), said, whilst discussing the benefits of knowledge of the *Qirāʾāt*: “The scholars (*ulamāʾ*) still derive from every letter which the reciter recites, a meaning which is not found in the recitation of another [letter]. The differing methods of recitation are the evidence of the jurists (*fuqahāʾ*) in deduction (*istinbāt*), and their evidence in guidance to the Straight Path (*Sawāʾ as-Ṣirāt*).”

ḥadīth of the Messenger of Allāh ﷺ: knowing the abrogating (*nāsikh*) and abrogated (*mansūkh*), and knowing the ḥadīth as well as he knows the Qur'ān. He must also be proficient in the Arabic language, poetry³⁵⁴, and everything needed to attain knowledge of [the Sunnah] and the Qur'ān. In addition to this, he must be fair and not rely overly on discourse (*kalām*). Furthermore, he must preside over the people's differences³⁵⁵, and he must be gifted. If this is the case, then it is appropriate for him to give legal opinions (*yufṭī*) on the permitted and the prohibited (*ḥalāl wa ḥarām*). If it is not the case, then it is not for him to discuss matters of knowledge, or to give legal opinions.

Ibn 'Abd al-Barr³⁵⁶ detailed this under the heading: 'The Stages of Learning and Admonition in the School (*Madhhab*)'. He mentioned what was cited from ash-Shāfi'i, citing proof of it in the opinions of the early

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﴿الَّذِينَ قَرَّعُوا دِينَهُمْ وَكَانُوا شِيعًا﴾

those who divide their religion and break up into sects (6:159; 30:32).

The reading of Hamzah and al-Kisā'i is:

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those who neglect their religion and left it behind them.

Those who act according to the famous reading, "*farraqū*" (divide), although they follow the jurists (*fuqahā*), are committing a clear mistake and a gross error, which involves applying the verses (*āyāt*) of Allāh which refer to the disbelievers (*kāfirūn*) to the believers (*mu'minūn*). This kind of thing was done by the misguided Kharijites (*Khawārij*) [who declared other Muslims to be unbelievers]!! Do you see the importance of knowledge of the differing methods of recitation (*Qirā'at*)?

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356 *Jāmi' Bayān al-'Ilm*, Vol. 2, p. 166.

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I say: This is the science of narrators (*'ilm ar-rijāl*) and of discrediting and crediting them (*jarḥ wa ta'dīl*), which by itself is sufficient, in our times, to exhaust a considerable amount of time from the life of a student of knowledge.

Imām al-Ghazālī mentioned similar conditions in *Al-Mankhūl*³⁵⁷. He expressed Imām ash-Shāfi'i's above-mentioned remark: "he must be gifted," using an expression often employed by the scholars of jurisprudential principles (*uṣūliyyun*), saying³⁵⁸: "It is essential that he is a jurist through and through (*faqih an-nafs*), which is a natural disposition having nothing to do with acquisition." You will find that in the books of biography the expression "a jurist through and through" (*faqih an-nafs*) is used to praise someone highly, while the scholars of ḥadīth use the expression "an out and out jurist" (*faqih al-badan*). The qualities of such a person are: "preserving the school of his Imām, knowing its proofs, and establishing it; demonstrating and revising; fixing and setting his principles; filtering and preferring. Nevertheless, he still falls short of them"—the first and second ranks mentioned previously—"because he does not equal them in preserving the *madhhab*; or in practising deduction (*istinbāt*), knowledge of the fundamentals (*uṣūl*), or other tools of [the independent jurist]." This is what Imām an-Nawawī said in *Al-Majmū'*³⁵⁹. He also said: "These are the qualities of many of the later jurists, up until the end of the fourteenth century, the compilers who arranged and edited the *madhhab*. . ."

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357 P. 462.

358 P. 464.

359 Vol. 1, p. 73.

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356 *Jāmi' Bayān al-'Ilm*, Vol. 2, p. 166.

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357 P. 462.

358 P. 464.

359 Vol. 1, p. 73.

an-Nawawī], since [al-Ghazālī] is speaking with respect to the independent jurist (*al-mujtahid al-mustaqill*). That described by an-Nawawī, on the other hand, is the rank of the scholars who allocated preference within the school of law.

Ibn al-Qayyim, in *I'lām al-Muwaqqi'in*³⁶⁰, mentioned some of what has been discussed here, and added to it, under the title: 'What the scholars say regarding the tools and conditions for delivering legal opinions; who should deliver legal opinions; and when it is permissible for the mufti to say "I do not know"'.³⁶¹

In *Al-Musawwadah*³⁶¹ there is a long chapter by Imām ibn Taymīyah the grandson, entitled: 'The characteristics of someone for whom it is permissible to deliver a legal opinion (*fatwā*) or judgement (*qadā'*)'. It contains that which is rare and useful.

All of this must be in addition to his adorning himself with good deeds (*ʿamal aṣ-ṣāliḥ*): worship (*ʿibādah*), fear of Allāh (*taqwā*), piety (*warā'*), asceticism (*zuhd*), disciplining the soul (*tahdhīb an-nafs*), and being characterised by the merits of Islām. As such, he is regarded an Imām in this sphere as well.

The Prophet ﷺ indicated this in one of his noble ḥadīth, which at-Ṭabarānī narrated in his *Al-Muʿjam al-Awsaṭ*, from 'Alī, may Allāh honour him. He said: "I said: 'Oh, Messenger of Allāh, if a matter befalls us, for which there is no elucidation [from the book of Allāh and the Sunnah] either enjoining it or prohibiting it, what do you command us to do?' He ﷺ said: 'Consult the jurists (*fuqahā'*) and the worshipers (*ʿābidūn*) about it, and do not express a personal opinion regarding it.'"³⁶²

The Prophet ﷺ thereby indicated the importance of worship (*ʿibādah*) in conjunction with knowledge (*ʿilm*) and understanding (*fahm*): "the jurists (*fuqahā'*) and the worshipers (*ʿābidūn*)".

This idea is confirmed by what ad-Dārimī narrated in his *Sunan*³⁶³, with an incomplete chain of transmission (*mursalan*)—his narrators are

³⁶⁰ Vol. 1, p. 44 onwards.

³⁶¹ P. 513.

³⁶² Al-Haythamī, in *Majma' az-Zawā'id* (Vol. 1, p. 178), said: "Its narrators are reliable, among those whose narrations are rigorously authenticated (*ṣaḥīḥ*); as-Suyūṭī also classified it as *ṣaḥīḥ* in *Miftāḥ al-Jannah* (p. 40).

³⁶³ Vol. 1, p. 49.

reliable (*thiqāt*)—that the Prophet ﷺ was asked [what to do] if a matter were to occur about which there was nothing in the Book of Allāh, or in the Sunnah. He replied: "The worshipers (*ʿābidūn*) from the believers should decide on it."

An-Nasā'ī narrated, in his *As-Sunan aṣ-Ṣuḥrā'*³⁶⁴, from Ibn Mas'ūd ؓ, that he said: "There was a time when we were not required to deliver judgements, but we are no longer in that time. Then, Allāh Almighty decreed for us that we would reach what you see [today]; so any of you who is required to deliver a judgement from today, let him judge according to the Book of Allāh. If a matter occurs which is not in the Book of Allāh, let him judge according to the judgement of His Prophet ﷺ. If a matter occurs which is not in the Book of Allāh, and on which His Prophet ﷺ has not delivered a judgement, let him judge according to the judgement of the righteous (*ṣāliḥūn*). And if a matter occurs which is not in the Book of Allāh, and on which His Prophet ﷺ has not delivered a judgement, nor have the righteous, then let him formulate his own independent judgement (*yajtahid*), without saying: 'I fear, I fear. . .' for that which is permitted (*ḥalāl*) is clear, and that which is prohibited (*ḥarām*) is clear, and between them are doubtful matters. So leave that which causes you to doubt for that which you are certain of." Abū 'Abd ar-Raḥmān—Imām an-Nasā'ī—said: "This ḥadīth is [classified as] good (*jayyid*) and good."

Moreover, he narrated with his chain of transmission (*sanad*) the book of Sayyidunā 'Umar ibn al-Khaṭṭāb to his judge (*qadī*), Shurayh, which also contains this point.

For this reason, Imām Abū Yūsuf said—having considered the judgements of Ḥafṣ ibn Ghiyāth, one of the revered and reliable narrators and a colleague of Abū Yūsuf, among the exceptional pupils of Imām Abū Ḥanīfah ؓ: "Ḥafṣ and his counterparts take pains to perform the Night Prayer (*Qiyām al-Layl*), and the Night Prayer is the distinguishing mark (*shī'ar*) of the righteous (*ṣāliḥūn*). Another time, he said: "Indeed, Ḥafṣ desired Allāh, so He granted him success"; and in another narration: "Allāh granted him success through the Night Prayer."³⁶⁵

The biography of the venerable Sayyid 'Abd al-Waḥhāb ibn 'Abd

³⁶⁴ Vol. 8, p. 230.

³⁶⁵ As in *Al-Jawāhir al-Muḍīyyah*, Vol. 1, pp. 222 and 223.

al-Ḥakam al-Warrāq, one of the students of Imām Aḥmad, may Allāh Most High have mercy on them both³⁶⁶, includes Imām Aḥmad's opinion about him: "Such a righteous man is granted success for attaining the truth (*al-ḥaqq*)".

I then saw the origin of the report, at the beginning of Imām Aḥmad's Book of Piety (*Kitāb al-Warā'*), where it says that: "Faṭḥ ibn Abī'l-Faṭḥ said to [Imām Aḥmad] in his illness from which he died: 'Make supplication (*du'ā'*) to Allāh to give us good leadership after you.' He also asked him, 'Who should we consult after you?' He replied, 'Consult 'Abd al-Wahhāb' [al-Warrāq]. Some of those who were present said to him, 'He does not have vast knowledge!' Abū 'Abd Allāh [Imām Aḥmad] replied, 'He is a righteous man (*rajul ṣāliḥ*). Such as him are granted success for attaining the truth (*al-ḥaqq*).'"

In fact, they were devoted to serving Allāh Most High before their quest for knowledge (*ilm*), so that they could begin seeking knowledge upon righteousness, worship, fear of Allāh, and asceticism (*zahādah*).

Ibn Abī Ḥātim narrated in *Taqdimat al-Jarḥ wa't-Ta'dīl*³⁶⁷, from the independent jurist (*mujtahid*) Imām, Sufyān ath-Thawrī ؓ, that he said: "If a man intends to seek knowledge, he should devote himself to worshipping Allāh for twenty years before that!"³⁶⁸

Third—The last area of doubt surrounding this reason [for differences of opinion among the Imāms] is that some of them [i.e. those who are against following the Imāms] say: 'If every one of the independent jurist Imāms were thoroughly acquainted with the Sunnah, then not one of them would have cited a weak ḥadīth as evidence for an issue, when there existed instead a rigorously authenticated ḥadīth cited by another Imām with an opposing view on the same issue.' This is in view of the fact that [the presence of] a rigorously authenticated ḥadīth makes a weak ḥadīth redundant. The Imām's citing a weak ḥadīth in support of his view is therefore evidence that he was unaware of the rigorously authenticated ḥadīth.

The answer to this is that the Imāms were thoroughly and sufficiently

366 *Tadhkirat al-Ḥuffāz*, p. 526, and *Tahdhīb at-Tahdhīb*, Vol. 6, p. 448. It is essential to also see al-Mardawī al-Ḥanbalī, *Al-Inṣāf*, Vol. 11, p. 194.

367 P. 95.

368 See also other reports in *Al-Muḥaddith al-Fāṣil*, p. 187.

acquainted with the Sunnah. Anyone who studies their biographies carefully and fairly, and who purifies his heart from dubious claims about them and pretentious superiority over them, knows this.

Regarding their citing weak ḥadīths as evidence, for which there exist comparable rigorously authenticated ḥadīths which apparently contradict [the weak ḥadīth], every fair person knows that this statement involves a fallacy and a distortion of the truth. To explain this requires consideration of a number of observations:

The first observation: The ḥadīths which the jurists [of the various *madh-habs*] mention in their books as evidences are not the self-same proofs given by the Imām of the school of law, and which he relied upon. Yes, they may often cite the same evidence as the Imām of the school. However, what they cite as evidence is not always in conformity with the evidence selected by the Imām.

The juristic ruling which they give is his, but the evidence is not his in many cases. Rather, it is a ḥadīth which the writer found to agree with the ruling of his Imām, and therefore cited it as evidence. The Imām may have other evidence, of which Allāh knows best.

This observation applies most to the Ḥanafī School of law. This is because Imām Abū Ḥanīfah did not himself formulate his fiqh and his proofs. The same can be said—broadly—for Imām Mālik and Aḥmad, while Imām ash-Shāfi'ī only included a small fraction of his fiqh and his proofs in his book, *Al-Umm*.

Many of the ḥadīths which we find in *Al-Hidāyah*, by al-Marghīnānī of the Ḥanafī school—for example; *Ar-Risālah*, by Ibn Abī Zayd al-Qayrawānī of the Mālikī school; *Al-Muḥaddhab*, by ash-Shīrāzī of the Shāfi'ī school; *Al-Mughnī*, by Ibn Qudāmah of the Ḥanbalī school; and other books, are not among those cited as evidence by the Imām of the school himself.

Some people have disparaged a school of law (*madhhab*), when referencing ḥadīths from one of its books, since they see the ḥadīth scholars (*muḥaddithūn*) classifying many of the ḥadīths of this book as: 'fabricated' (*mauḍū'*), weak (*ḍā'if*), and not known to be attributed to the Prophet ؐ (*marfū'*). . .

These people think that these ḥadīths are the evidences cited by the Imām of the school (*madhhab*) himself and therefore ask: how should we accept his leadership (*imāmah*) and independent reasoning (*ijtihād*) on

the revealed Law of Allāh Almighty, when he cites fabricated (*mawḍūʿ*) ḥadīths as evidence, and attributes to the Prophet ﷺ narrations which are attributed to Companions (*mawqūf*) and narrations attributed to Followers (*maqtūʿ*). . . ?

The evidence for what I have established in this observation and which proves that it is the reality with regard to our jurists is what Imām Ibn aṣ-Ṣalāḥ ᷺ said in his *Muqaddimah*³⁶⁹: “The eighth lesson: . . . for anyone who wishes to act upon it or advance it as an argument—providing he is someone for whom it is appropriate to act upon a ḥadīth³⁷⁰, or it has been advanced as evidence by the Imām of a school of law—is that he should refer to an original source which either he or another reliable person has checked. . . .”

His words: “or it has been advanced as evidence by the Imām of a school of law” refer explicitly to what I have mentioned.

Ibn al-Qayyim ᷺ said in the first lesson of his book, *Badāʾiʿ al-Fawāʾid*: The ḥadīth: “There is no right of pre-emption (*shufʿah*) for a Christian,” was advanced as evidence by some of the students of Imām Aḥmad. However, he is more knowledgeable than to have advanced it as evidence, since it is a remark made by some of the Followers.” Nevertheless, the Imām of the Ḥanbalī School of law in his era, al-Muwaffaq Ibn Qudāmah, advanced it as evidence in *Al-Mughnī*³⁷¹, and ascribed it to ad-Dāraquṭnī’s *ʿIlal*, from Anas, attributed to the Prophet ﷺ (*marfūʿan*), while al-Bayhaqī, in his *Sunan*³⁷², asserted that it was something said by al-Ḥasan al-Baṣrī ᷺.

Ibn Qayyim’s words, “it was advanced as evidence by some of his students” also refer explicitly to what I have said.

See shortly, the third observation.

The second observation: The jurist may mention evidence, which may be the evidence cited by the Imām [of the school] himself. The ḥadīth scholar (may extract this [evidence] from the books of those ḥadīth scholars who came after the Imāms of the schools of law, such as the four books of

369 P.25, at the end of the discussion of the rigorously authenticated (*ṣaḥīḥ*) ḥadīth.

370 In *An-Nukat al-Wafīyyah* (57 b), al-Biqāʾī quoted from his Shaykh Ibn Ḥajar a comment on this sentence: “I.e. without referring to other ḥadīths, because he knows the meaning of this ḥadīth; and because he has a gift which enables him to ascertain knowledge of what is required from it.

371 Vol. 5, p. 551.

372 Vol. 6, p. 109.

the *Sunan*, the *Musnads* and the *Muʿjams*, and so on. . . The ḥadīth scholar will judge this ḥadīth, according to these, as weak, fabricated (*mawḍūʿ*) or otherwise. In this case it is not appropriate to advance as evidence, while at the same time this ḥadīth is narrated by this independent jurist Imām, via his own particular route, with a rigorously authenticated chain of transmission, which is appropriate to advance as evidence. Whoever examines the ḥadīth via the ḥadīth scholars in their commonly available books, which those referencing (*aṣḥāb at-takhrīj*) depend upon, will find the ḥadīth inappropriate for use as evidence. He will therefore hasten to criticise and find fault, such that the slips of his tongue will reveal what had been concealed in his secret thoughts.

On the other hand, whoever looks for it carefully and searches for it in the books of the Imāms of the schools of law themselves, will find—if they have reached us—that it is rigorously authenticated and constitutes cogent proof. Then he will know that the truth (*al-ḥaqq*) belongs to the people of truth, and will concede the leadership of right-guidance to the Imāms of the Muslims, and oppose their leadership without this.

I will cite an example of this:

Al-Marghīnānī ᷺ mentioned, in *Al-Hidāyah*³⁷³, the ḥadīth: “Avert the *ḥudūd* punishments [i.e. for serious crimes] in cases of doubt”, as a ḥadīth attributed to the Prophet ﷺ (*marfūʿ*). Az-Zaylaʿī referenced it in *Naṣb ar-Rāyah*³⁷⁴, as a ḥadīth attributed to a Companion (*mawqūf*): said by Sayyidunā ʿUmar—with discontinuity (*inqiṭāʿ*) in its chain of transmission—as well as Muʿadh ibn Jabal, Ibn Maṣʿūd and ʿUqbah ibn ʿĀmir. The chain of transmission to them includes Ibn Abī Farwah, a narrator whose ḥadīths are discarded (*matrūk*). It is also attributed to az-Zuhri, who is a Follower, and his statement does not therefore constitute an authoritative source (*hujjah*).

The fact that Ibn Ḥazm did not see it as attributed to the Prophet ﷺ (*marfūʿ*), meant that he treated him [i.e. al-Marghīnānī] mercilessly in *Al-Muḥallā*³⁷⁵, and likewise the jurists who accepted the ḥadīth. He wrote and spoke rebukingly, as was his way ᷺.

Al-Kamāl ibn al-Humām responded to him in *Faṭḥ al-Qadīr*, and estab-

373 Vol. 4, p. 139, with its commentary *Faṭḥ al-Qadīr*.

374 Vol. 3, p. 333.

375 Vol. 11, p. 152–153.

lished its meaning from ḥadīths in the two *Ṣaḥīḥ* collections [of al-Bukhārī and Muslim]. He said: "By studying the narrations from the Prophet ﷺ and the Companions, we find that which is decisive in the issue, for we know that [the Prophet] ﷺ said to Mā'iz: "Perhaps you kissed; perhaps you touched; perhaps you fondled." All of this was to prompt him to say: 'yes', after admitting that he had committed adultery (*zinā*). There is no point in any of this, except that if he had said it [i.e. 'yes'], [the punishment] would have been averted. Otherwise, there is no point in it.

[The Prophet] did not say to someone who admitted to owing a debt (*dayn*): 'Perhaps it was entrusted to you and was lost', and so on . . . The outcome from all of this is that efforts must be made to avert the legal punishment (*al-ḥadd*), without doubt. . . This meaning, therefore, is decisively established from the legal perspective, and doubting it is doubting something necessary."

[This response of al-Kamāl ibn al-Humām] is a sound and valuable investigation, the completion of which is to establish the ḥadīth itself ["Avert the *ḥudūd* punishments in cases of doubt"] via a chain of transmission which is attributed to the Prophet ﷺ (*marfūʿ*) and rigorously authenticated.

Imām Abū Ḥanīfah narrated this ḥadīth: "Avert the *ḥudūd* punishments in doubtful cases", in his *Musnad*, it being the fourth ḥadīth in the Book of *Ḥudūd*³⁷⁶. His chain of transmission for it is: "from Miqasam, from Ibn 'Abbās, who said: "The Messenger of Allāh ﷺ said: 'Avert the *ḥudūd* punishments in doubtful cases.'"

Miqasam is reliable (*thiqah*). He was regarded as reliable by Aḥmad ibn Ṣāliḥ al-Miṣrī, the Imām of his day in Egypt (Miṣr), al-'Ijlī, Ya'qūb ibn Sufyān, and ad-Dāraquṭnī. As for Ibn 'Abbās: he is Ibn 'Abbās. This is the only chain of transmission for this ḥadīth which is attributed to the Prophet ﷺ (*marfūʿ*) and rigorously authenticated.³⁷⁷

From this we know that the Imāms had their own particular chains of transmission. We also know the necessity of referencing the ḥadīths

376 P. 32 in the edition of the text published by Sharikat al-Maṭbūʿāt al-'Ilmiyyah; and p. 157 in *Tanṣīq an-Nizām Sharḥ Musnad al-Imām*, by al-'Allāmah as-Sanbahli, Karachi edition.

377 Note the meticulousness of al-'Allāmah al-Jalāl al-Maḥallī in restricting the attribution of this ḥadīth to the *Musnad* of Imām Abū Ḥanīfah in his *Sharḥ 'alā Jamī' al-Jawāmi'* (Vol. 2, p. 160), without digressing into those long and painstaking extractions (*takhrijāt*).

of their fiqh from their own books, where possible. Where this is not possible, we reference them from the books of other ḥadīth scholars, with the condition that their extraction of the ḥadīth is not made a judge upon [the Imāms'] necks [i.e. the criterion by which their ḥadīths are judged] and a sign of the weakness of their position! And Allāh is the Giver of Guidance.

This observation came to my attention through the work of the jurist, ḥadīth master (*ḥāfiẓ*) and scholar of principles of jurisprudence (*uṣūlī*), al-'Allāmah Qāsim ibn Quṭlūbughā al-Jamālī, in his work *Munyat al-Alma' fīmā fāta min Takhrīj 'Al-Hidāyah' li'z-Zaylā'i*. Indeed, he took the majority of his corrections on *Naṣb ar-Rāyah* from the original sources of Ḥanafī fiqh, whether works of ḥadīth or fiqh.

Thereafter, I saw that Shaykh Ibn Taymiyah says in *Raf' al-Malām*³⁷⁸: The Imāms "who lived before the compilation of these written collections (*dawāwīn*) [of ḥadīth], were much more knowledgeable about the Sunnah than those who came later, because much of what reached them and which they considered rigorously authenticated may only have reached us from an unknown source (*majhūl*) or with a discontinuous (*munqaṭaʿ*) chain of transmission, or not at all."

Imām al-Kamāl ibn al-Humām said in *Fath al-Qadīr*³⁷⁹: "Regarding the opinion of someone who says: 'No rigorously authenticated ḥadīth exists on whether or not ablution is invalidated (*naqḍ al-wuḍūʿ*) by blood, vomit and laughing'; if [their opinion] is accepted, it does not cause harm, since authoritative proof is not dependent upon rigorous authenticity. Rather, it is sufficient that a ḥadīth is sound (*ḥasan*); in addition to the fact that this is his opinion. As for an independent jurist, who knows the differences of opinion which exist about the rigorous authenticity (*ṣiḥḥah*) of the ḥadīth, and who regards its rigorous authenticity as more likely: for him, it is rigorously authenticated. The mere existence of differences of opinion about it does not prevent him from giving preference (*tarjih*) [to the ḥadīth] and establishing its rigorous authenticity."

He also said³⁸⁰: "As for the independent jurist considering whether a

378 P. 18.

379 Vol. 1, p. 27.

380 Vol. 1, p. 318.

condition exists, and for someone who knew the narrator thoroughly, they only need to consult their own opinion.”

The third observation: It is possible that the evidence cited by the jurist Imāms is a ḥadīth whose chain of transmission is genuinely weak, whether from their own chain of transmission, or from the chain of the scholars of ḥadīth. However, it will have a large number of supporting factors (*mu'ayyidāt*), from the Book of Allāh, the Sunnah, or both.

This observation is understood from the practice of Imām ibn al-Humām in consolidating the meaning of the ḥadīth: “Avert the *ḥudūd* punishments in doubtful cases” [where he established its meaning from the ḥadīths of al-Bukhārī and Muslim]—if accepted that it is weak.

Another example which is understood from his work is as follows.

The jurists cite, as evidence for the ruling that it is a man's right to divorce (*talāq*), the ḥadīth of Ibn 'Abbās, attributed (*marfū'an*) to the Prophet ﷺ: “Divorce belongs to the one who takes hold of the calf [i.e. the husband]”. The ḥadīth was narrated by Ibn Mājah³⁸¹ from the chain of transmission of Yaḥyā ibn Bukayr from Ibn Lahī'ah, who is weak (*dā'if*) and prone to confusion (*ikhtilāf*). It was also narrated by others apart from Ibn Mājah, and its chains are not free from criticised narrators. The extent of the criticism is what ash-Shawkānī said in *Nayl al-Awṭār*³⁸²: “Its chains of transmission strengthen each other.” Thus, anyone who regarded it as sound (*hasan*), did so on account of this.

According to this, even if we accept its weakness, we should not criticise its citation as evidence, due to the supporting factors (*mu'ayyidāt*) which corroborate it, and to the supporting evidence from the Qur'an, which attribute [the right of] divorce (*talāq*) to the man, not the woman. Allāh Most High said:

﴿يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ﴾

Oh Prophet, when [any of] you divorce women, divorce them according to the waiting period ordained for them (65:1).

He also said:

381 Vol. 1, p. 672, (2081).

382 Vol. 6, p. 253.

The Fourth Reason

﴿وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَلَبُغْنَ أَجَلَهُنَّ﴾

And so, when you divorce women, and they reach the end of their term of waiting (2:231).

Glorified is He, He also said:

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾

And the divorced women shall undergo, without re-marrying, a waiting period of three menstrual cycles (2:228).

And much more in addition to this.

Ibn al-Qayyim drew attention to this, saying in *Zād al-Ma'ād*³⁸³: “... and the ḥadīth of Ibn 'Abbās, May Allāh be pleased with them both, which was mentioned previously: despite any deficiencies in its chain of transmission (*isnād*), it is supported by the Qur'an, and is practised by the people.”

A second example is the stipulation of the jurists that it is preferable (*mustahabb*) to cover the head when entering the toilet. Regarding this, there is the ḥadīth: “The Messenger of Allāh ﷺ, when he entered the toilet, would put on his shoes (*hidhā*) and cover his head.” This is the wording narrated by Ibn Sa'd, which as-Suyūṭī attributed to him in *Al-Jāmi' aṣ-Ṣaḡīr*³⁸⁴. It is from the narration of Abū Bakr ibn 'Abd Allāh, from Ḥabīb ibn Ṣāliḥ, attributed to the Prophet by a Follower (ḥadīth *mur-salan*). The commentator [on Suyūṭī's *Al-Jāmi' aṣ-Ṣaḡīr*], al-Munāwī, said: “Adh-Dhahabī said: ‘Abū Bakr is weak. . .’ Al-Bayhaqī³⁸⁵ also narrated it from the above-mentioned Ḥabīb.” This chain also contains Abū Bakr.

None of this, then, constitutes proof. However, al-Bukhārī³⁸⁶, in ‘The Book of Campaigns’ (*Kitāb al-Maghāzī*), in the section: The killing of Abū Rāfi' ibn Abī al-Ḥuqayq (*Qatl Abī Rāfi' ibn Abī al-Ḥuqayq*), narrates the following, which contains what 'Abd Allāh ibn 'Atīq related about himself: “He approached until he neared the door. Then he veiled himself with his garment (*thawb*), as if he were relieving himself. . .” The meaning of

383 Vol. 5, p. 279.

384 Vol. 5, p. 128, with its commentary, *Fayḍ al-Qadīr*. It is also attributed to Abū Dāwūd, which is a mistake.

385 Vol. 1, p. 96.

386 Vol. 7, p. 347.

“he veiled himself with his garment” is the same as in the second narration: “He said: ‘So I covered my head, as if I were relieving myself.’” This indicates that it was an action well known to them [i.e. the Companions], which was usually performed in this circumstance.

In *Tadrīb ar-Rāwī*³⁸⁷ [it is reported]: “Abū’l-Ḥasan ibn al-Ḥaṣṣār said, in *Taqrīb al-Madārik ‘alā Muwaṭṭa’ Mālik*: ‘The jurist may ascertain the rigorous authenticity of the ḥadīth as long as the chain of transmission contains no liars: if it is corroborated by an āyah of the Book of Allāh, or some of the principles of the Sharī‘ah. This makes him accept it and act upon it.’”

In this way, the ḥadīth becomes an authoritative proof (*hujjah*), which cannot be disputed.

There is also a very important observation which requires some simplification and explanation, in order to clarify it and glean the evidence from it.

Imām Muslim رحمه الله has a book called *Benefitting from the Skin of Predatory Animals* (*Al-Intifā‘ bi Uhub as-Sibā’*), from which Imām al-Bayhaqī quoted an interesting passage which explains Imām ash-Shāfi‘ī’s رحمه الله method of presenting his rulings and proofs. He said, in ‘Exposing the one who considered ash-Shāfi‘ī’ to have made a mistake’³⁸⁸:

Muslim said: “Ash-Shāfi‘ī did not depend, as an authoritative source (*hujjah*) for the issues mentioned in his books, on those ḥadīths which directly follow his responses. Rather, he would extract, in most of the rulings, his proofs from the Qur’ān and Sunnah, the evidence which he would advance for it, and from analogy (*qiyās*)—when he saw it as an authoritative source; then he would mention the ḥadīths: whether they were strong or not. Whichever were strong (*qawī*), he would rely on them to advance in support of his opinion. Those which did not qualify as strong, he would mention in passing in his argument. In this case, he would rely on the evidence which he cited from the Qur’ān, the Sunnah and analogy. . .

We learn from this that Imām ash-Shāfi‘ī’s method in his books was

³⁸⁷ At the end of the fifth point on identifying the rigorously authenticated (*ṣaḥīḥ*) ḥadīth, p. 25.

³⁸⁸ P. 243.

to mention the ruling, supported by authoritative proofs which he derived from the Book of Allāh and the Sunnah. He would then mention [ḥadīths] which are clearly relevant to the issue, whether strong (*qawī*) or otherwise, indicating those which were not strong as he reported them. The main authoritative source was, therefore, the proofs which he had previously presented.

Shortly after this, al-Bayhaqī said: “The commencement of some chapters of *Al-Mukhtaṣar* [i.e. *Mukhtaṣar al-Muzanī*] with ḥadīths which are not suitable to advance as evidence, is the doing of al-Muzanī رحمه الله [the student of ash-Shāfi‘ī]. Ash-Shāfi‘ī, on the other hand, reported them in passing”—i.e. according to the method—“mentioned by the Imām of transmitters, Muslim ibn al-Ḥajjāj رحمه الله.”

Notice how a change occurred in the presentation of evidence from the Imām to his student! The Imām commences with what he views as the main evidence, while the student commences with some which has been criticised. This may have been mentioned by the Imām in his discussion and citation of evidence, with indication of its weakness. Al-Muzanī has therefore overlooked two matters in the Imām’s work: citing last, evidence which is not worthy of being advanced; and indicating its weaknesses.³⁸⁹

This is despite their being near contemporaries, their close association, and Al-Muzanī’s long adherence to the Imām. It is no wonder then that we see scholars who postdate the Imām of the school of law by as much as centuries citing evidence which the Imām did not cite—although they agree with his rulings and independent opinions (*ijtihādāt*)—or citing only that which is weak, while sufficient rigorously authenticated ḥadīths exist. And Allāh knows best.

At times, the compilers (*muṣannifūn*) of fiqh may mention a proof for a ruling, citing it as a ḥadīth which is attributed to the Prophet ﷺ, while the ḥadīth scholars will reference it as the words of such-and-such Follower (*Tābi‘ī*). Consequently, a person may think that the fiqh ruling itself has been withdrawn and abolished, and thus the fiqh of the jurists, and the independent reasoning of the independent jurists is invalidated! This is

³⁸⁹ It is essential to see a more detailed explanation of this observation in al-Bayhaqī’s *Manāqib ash-Shāfi‘ī*, Vol. 2, p. 347 and what follows. See also another observation relating to al-Muzanī’s treatment of something expressed by Imām ash-Shāfi‘ī, in al-Azhari’s *Az-Zāhir*, pp. 46–47.

despite the fact that [other] evidence exists in relation to the issue, which is decisive and established with certainty, not with assumption.

An example of this is the citation of evidence by some that the obligatory (*farīdah*) prayers of Afternoon (*Zuḥr*) and Late Afternoon (*ʿAṣr*) are performed silently (*sirran*), without reciting aloud. They cite as evidence: "The prayers of the day are a dumb beast [meaning one should not recite aloud in them]", even though it is "invalid, without basis" as a narration attributed to the Prophet ﷺ (*marfūʿ*). It was merely said by some Followers: "Mujāhid and Abū 'Ubaydah ibn 'Abd Allāh ibn Mas'ūd".³⁹⁰

However, this does not invalidate the fiqh ruling pertaining to this, and thus we permit ourselves to recite aloud in prayers (*ṣalāh*) during the day, since this ruling is established from the ḥadīth of al-Bukhārī, from Khabbāb ibn al-Aratt, that he was asked: "Would the Messenger of Allāh ﷺ recite in *Zuḥr* and *ʿAṣr* prayers?" "Yes," he said. We asked, "How did you know this?" He replied, "By the movement of his beard [meaning, they could not hear him as he did not recite aloud]."

In *Ṣaḥīḥ Muslim* [it is also reported] from Abū Saʿīd al-Khudrī that he said: "We estimated the standing (*qiyām*) of the Messenger of Allāh ﷺ in *Zuḥr* and *ʿAṣr* prayers. We estimated [i.e. we did not hear him recite aloud] that he stood in the first two units (*rakʿatān*) of *Zuḥr* prayer for the duration of reciting Surah Alif Lām Mīm as-Sajdah; and for half that duration in the other two. . ."

These two ḥadīths—both of which are in the two *Ṣaḥīḥ* collections [of al-Bukhārī and Muslim]—proves this ruling [of reciting silently], and associated with it is the continuous practice of the Muslims, and its spread amongst them without denial. This ruling is, therefore, based on evidence which is decisive in its rigorous authenticity, and not on a ḥadīth attributed to some of the pious predecessors (*maqtūʿ*), whom it is not obligatory to follow or accept their opinion.

Whoever cites these ḥadīths as evidence, which are weak in themselves, but strengthened by other supporting factors, cites them only on account of their explicit relevance to the ruling, not because of their inherent

³⁹⁰ As transmitted by al-Ḥāfiẓ az-Zaylaʿī in *Naṣb ar-Rāyah*, at the beginning of the Second Part; and as-Sakhāwī in *Al-Maqāṣid al-Ḥasanā*, pp. 565–566; see it also in the *Muṣannaf* of 'Abd ar-Razzāq (Vol. 2, p. 493), as something said by Ḥasan al-Baṣrī.

strength [as ḥadīths], accepting the inadmissibility of attributing them to the Prophet ﷺ as his own words.

In sum, weak and other similar ḥadīths [i.e. fabricated narrations or those from the statements of later people], which we see in widely circulated books of fiqh, are in some instances from the evidence of the Imām [of the *madhhab*] himself, while in many other instances they are from the evidence which the writer has cited.

Moreover, the weakness of the ḥadīths does not necessitate the weakness of the ruling which is based on it, since there may exist [other] evidence from the Qurʾān which supports it, and there may exist evidence from the rigorously authenticated and definitive Sunnah.

The fourth observation: The ḥadīth may be weak in the chain of transmission of the independent jurist, and in the chain of transmission of the ḥadīth scholars, without the existence of supporting factors which establish it as rigorously authenticated. However, the Imām may have cited it as evidence according to his position (*madhhab*) of advancing a weak ḥadīth when no other relevant ḥadīth exists. The weakness, however, must not be severe, as explained previously in the discussion of the second point of the First Reason. A weak ḥadīth is better than subjective opinion (*raʾī*) and analogy (*qiyās*).

And Allāh Most High knows best.

SUMMARY

Preface: Here we saw the Imams' eagerness to take their knowledge from the Prophetic Sunnah, and the establishment, thereafter, of their fiqh and their independently formulated legal opinions (*ijtihādāt*) upon this. We also saw their encouragement of people to seek the noble ḥadīth; their disregard for subjective opinion (*ra'ī*); and that protection against trials in religion is by seeking refuge in the Sunnah of the Prophet ﷺ, in which there is salvation from destruction.

The First Reason: When does a noble ḥadīth qualify for being acted upon? Here we saw the following four essential points:

1. Differences of opinion regarding some conditions for the rigorous authenticity (*ṣiḥḥa*) of a ḥadīth, and that the Imāms had different views regarding some of the conditions for authenticity, which resulted in some differences of opinion in fiqh.

2. Whether acting upon a ḥadīth is conditional upon it being rigorously authenticated (*ṣaḥīḥ*). In the response to this we saw that a number of the jurist (*fuqahā'*) and ḥadīth scholar (*muḥaddithūn*) Imāms do not consider this a prerequisite. In fact, they consider it permissible to act upon a weak (*dā'if*) ḥadīth, provided that there exists no other relevant ḥadīth, and give preference to acting upon a weak ḥadīth over analogy (*qiyās*).

Some of them relied on the weak ḥadīth in order to allocate preference (*tarjīḥ*) between two equally possible meanings for a particular wording, and no means of allocating preference exists except this weak ḥadīth.

This also results in some differences of opinion between those who rely on the weak ḥadīth and those who do not.

3. The necessity of establishing the [precise] Prophetic wording of the ḥadīth (whether it is narrated in the original wording or by meaning).

We saw here a practical example of this. The differences between narrators regarding the narration of a single phrase: “complete what you miss” (*wa mā fātakum fa atimmū*), or: “make up what you miss” (*wa mā fātakum faqdū*). Imām Abū Ḥanīfah therefore stipulated that anyone intending to narrate by meaning must be a jurist (*faqīh*), and in addition to what others stipulated, that he should be an expert in the Arabic language.

4. Establishing the accurate vocalisation of the noble ḥadīth with respect to the Arabic language. Here we saw an example which influenced the differing opinions of the jurist Imāms on the permissibility or impermissibility of eating the offspring which emerges alive from a she-goat which has been slaughtered Islamically. This difference resulted from a number of matters, including the pronunciation of the word ‘sacrifice’ (*dhakāt*) in the ḥadīth: “The sacrifice of the foetus is the sacrifice of its mother.” Is it pronounced in the nominative case (*rafʿ*) [i.e. vocalized with a *ḍammah*] on both occasions; or in the accusative (*naṣb*) [i.e. vocalized with a *fathah*] on both occasions; or in the nominative first and the accusative second?

In concluding the discussion of this First Reason I examined two areas of doubt which apply to it:

1. If the ḥadīth is rigorously authenticated (*ṣaḥīḥ*), then it is my position (*madhhab*).
2. The rigorous authenticity of the ḥadīth is sufficient to act upon it.

I demonstrated exhaustively that what the Imāms intended by their statement: “If the ḥadīth is rigorously authenticated, then it is my position”, was: If the ḥadīth is rigorously authenticated and appropriate to act upon, and is not in conflict with various matters. Furthermore, this statement was directed at other Imāms, their peers. A small number of past scholars (*‘ulamā*), endeavoured [to apply this statement literally], but made mistakes, or there was some confusion in their application of the ruling. In this, there is an example and lesson for us.

I also showed that anyone who claims: ‘The rigorous authenticity of the ḥadīth is sufficient to act upon it,’ is mistaken; and that this statement

is in keeping with the first statement, so the response to the former is the response to the latter.

I then discussed the statement made by some, that: ‘We are ordered to follow the Messenger of Allāh ﷺ, and no one else.’ I responded to this by showing that the Imāms followed him ﷺ in their formulation of independent legal opinions (*ijtihādāt*), making every effort to do so.

I also explained the danger of shifting (*tanaqqul*) from one school of law to another in different rulings, citing the clarity of evidence provided by the Imām of this school on this issue, when the person making the shift is unqualified to allocate preference between the proofs of the Imāms.

We then discussed:

The Second Reason: Differences amongst the Imāms in terms of their understanding of the noble ḥadīth—resulting from two matters:

Disparities in both their natural and acquired mental faculties—for which I reported evidence and examples, such as the story of Imām Abū Ḥanīfah with al-Aʿmash; Muḥammad ibn al-Ḥasan with ʿĪsā ibn Abān; and Imām Aḥmad’s conversation with Imām ash-Shāfiʿī. . . May Allāh be pleased with them all.

I then drew attention to a profoundly important and dangerous matter; that this fiqh [i.e. the whole wealth of Islamic Jurisprudence] is the religion (*dīn*); because it comprises understanding (*fahm*), interpretation (*tafsīr*) and explanation (*sharḥ*) of the Book of Allāh and the Sunnah. Removing it from religion means invalidating all of this, and maintaining the Book of Allāh and the Sunnah as abstract texts.

Finally, I drew attention to the error of those who present their [own] understanding to the people, calling it ‘fiqh of the Sunnah and the Book of Allāh’, or ‘fiqh of the Sunnah’, stripped of any consideration of the fiqh of the former Imāms. The fiqh of Abū Ḥanīfah, for example, originates—according to these people—from Abū Ḥanīfah and not from the Book of Allāh and the Sunnah, while their fiqh originates from the Book of Allāh and the Sunnah!

We discussed the following in:

The Third Reason: Differing methods of the scholars for combining apparently contradictory ḥadīths. Here, we saw the stages of combining (*jamʿ*) apparently contradictory ḥadīths, which are: combining [i.e. rec-

onciling] them; if this is not feasible, claiming abrogation (*naskh*); and if this is not feasible, allocating preference (*tarjīh*).

We saw that claiming abrogation (*naskh*) is not an arbitrary matter, but involves principles and determining factors, and is far from simple.

We also saw the difficulty of reconciling (*jam'*) two apparently contradictory ḥadīths, and that it requires an acute understanding and broad knowledge. [We learnt] that there are a great many modes (*wujūh*) of reconciling apparently contradictory ḥadīths, which al-Ḥāfiẓ al-'Irāqī numbered at one hundred and ten, indicating that there are also many others.

A number of other facts became clear from our discussion of:

The Fourth Reason: Differences of opinion amongst the scholars due to their varying degrees of acquaintance with the Sunnah.

The first fact: The Imāms were thoroughly acquainted with the Sunnah; nevertheless, none of them as individuals had comprehensive knowledge of all of it.

The second fact: I treated, in some detail, Imām Abū Ḥanīfah's breadth of knowledge of the Sunnah. I cited various texts and stories proving this, and showing that while he narrated few ḥadīths to others, at the same time he received (*taḥammul*), preserved and had knowledge of many ḥadīths.

The third fact: Some Imāms retracted opinions and fatwās which they had delivered, in favour of something narrated to them which contradicted what they had advocated. This was because it had previously eluded them.

I then discussed the question of why I make this the last reason [for differences of opinions amongst the Imāms]. I answered it, showing that it is rightfully and logically placed last.

I then mentioned three areas of doubt which apply to this reason, and responded to them. They are:

1. Some of the Sunnah did indeed elude the Imāms. This exposes them to the claim that something else related to the same issue may have eluded them, and to another issue, and so on. . . Let us then examine the evidence ourselves, in order to be certain.

I responded to this by explaining that the students of every Imām redressed this and made it clear. Furthermore, it is a fundamental error of scholarship and reason to judge the whole in terms of the exception.

2. Some [of those opposed to following the Imāms] have claimed

that the books of the Sunnah today are easier to use than in the past. It is therefore possible to use them in order to build a new school of fiqh; or one which is derived from the existing schools by following whichever is supported by the strongest evidence, based on the widely available books of the Sunnah.

The answer to this is that the number of ḥadīths contained in the longest extant books of ḥadīth is fewer than the number of ḥadīths which the Imāms transmitted as having been aware of or recorded in their books. This is in addition to the shortcomings of many ḥadīths in this book with respect to their chains of transmission; and despite the fact that [the ḥadīths in the books of the Imāms] are recorded in a way that examining and benefiting from them is not easy.

Furthermore, the availability of a large number of ḥadīths is not the first and last principle involved here, since there are also other reasons for differences of opinion which I have mentioned, as well as those which I have not mentioned.

The independent jurist is not only in need of knowledge of the Sunnah, rather there are many other conditions which he must fulfil, in addition to righteous deeds, worship and piety. I reported the evidence for this from the Prophetic Sunnah.

3. Some of them regard it as dubious that there are weak and fabricated ḥadīths found in the commonly used books of fiqh. They assume that these are the proofs of the Imām of the school of law and so ask how he can be accepted as Imām when this is the case. They also assume that this is the evidence for this particular ruling, and that if it is considered weak, then so is the ruling. I answered this by explaining a number of important observations:

The first observation: That some of the ḥadīths mentioned in the books of fiqh are the proofs of the Imām of the school of law, whereas others have been cited by the writer himself as evidence.

The second observation: That the classification of these ḥadīths as weak is based only on examination of the chains of transmission of the ḥadīth scholars who cited them—not on examination of the chains of transmission of the Imām of the school. The independent jurist Imāms have their own personal chains of transmission. The example which I cited of this is the ḥadīth: "Avert the *ḥudūd* punishments in cases of doubt."

The third observation: The jurist [i.e. the author of the book of fiqh] may cite this ḥadīth as evidence for a ruling, and the ḥadīth may be weak. However, it is accompanied by supporting factors and strong evidence. It was only chosen by the jurist because it provides explicit evidence of what is intended. I cited two examples of such use of ḥadīth: "Divorce is only for the one who takes hold of the calf [i.e. the husband]", and "Prayer during the daytime is a dumb beast".

The fourth observation: The ḥadīth may be weak, without anything to reinforce it. However, the Imām may have chosen to cite it as evidence according to his position of acting upon a weak ḥadīth if there exists no other relevant ḥadīth. In this case, he gives preference to acting upon a weak ḥadīth over acting according to analogy (*qiyās*). And Allāh knows best.

This ends what Allāh Most High has enabled me to present and summarise. I ask the Lord Almighty to make it reasonable and clear; and to enhance by it my recompense and reward, through His grace and benevolence. Indeed, He is the Master of all that is good and every blessing. May Allāh bestow peace and blessings upon our master, Sayyidunā Muḥammad, on his family, and Companions. All praise is to Allāh, Lord of the Worlds.

Written by

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7 Rabī' al-Awwal 1398 | 15 February 1978

APPENDIX

The Journal of the Fiqh Academy (*Majallat al-Majmā' al-Fiqhī*), which is produced by the Muslim World League (*Rābi'at al-Ālam al-Islāmī*) in Makkah al-Mukarramah, published in the second issue of its first year a resolution by the aforementioned Council on the differences of juristic opinion amongst the jurist (*fuqahā'*) Imāms and the reprehensible fanaticism of some of their followers. The resolution was signed by the members of the Council, who represent the perspective of the Islamic World on this difficult issue. This is the text of the resolution from page 59 and what follows, and from page 219 and what follows.

RESOLUTION OF THE ASSEMBLY OF THE FIQH
ACADEMY IN ITS TENTH SESSION

Convened in 1408/1987. Regarding the Juristic
Differences between the Schools of Law and the
[Reprehensible] Fanaticism of some of their Followers

Praise be to Allāh alone, and peace and blessings be upon the last of the Prophets, our master, Sayyidunā Muḥammad. May Allāh bestow peace and blessings upon him, his family, and his Companions.

The Assembly of the Islamic Fiqh Academy, in its tenth session, convened in Makkah al-Mukarramah, for the period between Saturday 24 Ṣafr 1408/17 October 1987 and Wednesday 28 Ṣafr 1408/21 October 1987, has considered the issue of juristic differences between the schools of law (*madhāhib*), and the contemporary fanaticism of followers for their own schools, which goes beyond the bounds of moderation and reaches the point where the perpetrators attack the other schools and their scholars (*ʿulamāʾ*).

The Assembly examined the problems which arise in the minds of the youth of this age and their ideas surrounding the differences between the schools of law, of which they do not know the basis or the significance. Those who mislead them give them the idea that so long as Islamic Law is one, and its foundations in the Sublime Qurʾān and the Prophetic Sunnah are also united, why then are there differences between the schools of law? And why are they not united so that the Muslims have before them only one school of law and one understanding of the Shariʿah?

The Assembly also examined the issue of fanatical adherence to the schools of law and the problems which result from it, especially among some contemporary currents in our time, whose followers call for a new line of independent legal reasoning (*ijtihād*). They attack the established schools of law, which have been accepted by the Ummah since the beginning of the Islamic era and [they attack] their Imāms—or some of them—wrongly, and sow seeds of discord (*fitnah*) amongst the people!

After discussing this issue, the events and circumstances surrounding it and the resultant discord and deception, the Fiqh Academy resolved to direct the following statement to both parties, those misleading and the fanatics, in order to remind and inform them as follows:

Appendix

First: Regarding the Differences between the Schools of Law (*Madhāhib*)
The differing positions in terms of opinion which exist in Islamic countries are of two kinds:

1. Differing positions in terms of belief
2. Differing positions in terms of fiqh

The first of these, that is, differences of belief (*al-ikhtilāf al-ʿiṭiqādī*), is in reality a problem which has caused catastrophes in Islamic countries, splitting the ranks of the Muslims and dividing their position. It is a distressing matter, which should not exist. The Ummah must unite upon the position of those who follow the Sunnah and the community (*ahl as-Sunnah wa'l-jamāʿah*), who represent the pure and sound Islamic thought of the era of the Messenger of Allāh and the era of the rightly guided Caliphate, which the Messenger indicated to be an extension of his Sunnah, by saying: "Follow my Sunnah and the Sunnah of the rightly guided Caliphs after me. Adhere to it and hold onto it firmly with your molar teeth."

With regard to the second [kind of difference], that is, differences in terms of fiqh on some issues, there are technical reasons which have necessitated this. Allāh, praised be He, has put profound wisdom in this, which includes mercy upon his servants and widening the scope for deriving rulings from the texts. Furthermore, it is a blessing and a juristic and legal treasure, which affords the Muslim Ummah breadth in matters of religion (*dīn*) and law (*shariʿah*), so that it is not confined to applying a single legal ruling, for which there is no alternative. Rather, if the Ummah finds hardship in the position of one of the jurist Imāms at a particular time or regarding a particular matter, they find in the position of one of the other Imāms a range, a leniency and an ease, whether in matters of worship, or in dealings with others, family matters, or justice and crime—in light of legal evidences.

This second kind of difference of schools, that is, differences in terms of fiqh, is not a deficiency or a matter of contradiction in our religion, and it is impossible for it not to exist. There can be no community (*ummah*) whose legal system is perfect, including its jurisprudence (*fiqh*) and independent legal reasoning (*ijtihād*), in which such differences of opinion do not exist regarding jurisprudence and independent legal opinions.

The reality is that these differences are inevitable, because the source texts often hold more than one meaning. In addition, the text cannot contain every eventuality, since the texts are limited, whereas the eventualities are unlimited, as expressed by a group of scholars. Consequently, it is necessary to resort to analogy and to examine the pretexts for rulings; the objective of the Legislator; the general aims of the Law; and the application of these in actual and new circumstances.

In this the understanding of the scholars differs, as does their allocation of preference between the various possibilities. Their rulings on the same issue therefore differ, although each of them is aiming and searching for the truth. Whoever finds it, has two rewards; whereas whoever is mistaken, has one reward. As a result the [juristic] scope widens and the narrowness disappears.

Where then is the deficiency in the existence of these differences of position? We have shown the benefit and the mercy that is in them, and that they are in fact a blessing and a mercy from Allāh to his believing servants, and at the same time a great source of legislative wealth, a feature worthy of the pride of the Muslim Ummah. However, [there are those] misleading foreigners who seek to exploit the weakness of the Islamic culture of some Muslim youth, especially those who study with them abroad. Therefore, they depict these differences of position in terms of fiqh as if they were differences of belief, in order to give them the impression—wrongly and falsely—that it indicates a contradiction within the Shari'ah, rather than apprehending the distinction between the two types [of difference]. . . and how different they are!

Second: Regarding the group who call for discarding the schools of law and want to induce the people into a new line of independent legal reasoning, attacking the existing schools of law and their Imāms, or some of them; in our above statement on the schools of jurisprudence, and the advantages of their existence and of their Imāms, [we state that] it is necessary for them to desist from this odious way which they pursue and with which they mislead the people, split their ranks and divide their unity. [They do so] at a time when we are in urgent need of unity in order to confront the grave challenges posed by the enemies of Islām, rather than this call to division, of which we have no need.

May Allāh bestow peace and blessings in abundance on Sayyidunā

Appendix

Muḥammad, his family and Companions. Praise be to Allāh, Lord of the Worlds.

Signed by

President of the Assembly of the Academy

‘ABD AL-‘AZĪZ IBN ‘ABD ALLĀH IBN BĀZ

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ABŪ’L-ḤASAN ‘ALĪ AN-NADWĪ [not present to sign]

MUḤAMMAD MAḤMŪD AṢ-ṢAWĀF

AḤMAD FAHMĪ ABŪ SUNNAH

ABŪ BAKR JŪMĪ

MUḤAMMAD ASH-SHĀDHLĪ AN-NAYFAR

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Chairman of the Assembly of the Fiqh Academy

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ABOUT THE AUTHOR

SHAYKH MUḤAMMAD ‘AWWĀMAH is one of the leading scholars of ḥadīth, fiqh and other Islamic disciplines of our era. Born in the Syrian city of Aleppo, he first studied under the likes of Shaykh ‘Abd Allāh Sirāj ad-Dīn and Shaykh ‘Abd al-Fattāḥ Abū Ghuddah. He then travelled to Egypt and studied with some of the greatest scholars there. He has been engaged in the service of knowledge and its seekers for the past fifty years—initially in Syria and now in al-Madīnah al-Munawwarah, where he currently resides. The Shaykh is gifted with distinct academic power and evident extraordinary qualities, and considered an authority in the field of research. The famous Shaykh Muḥammad Sa‘īd aṭ-Ṭantāwī said regarding him, “I know none upon the surface of the earth who is more knowledgeable in the field of research than him.” He is the author of a number of books, and in particular is known for his reproduction of classical texts with scholarly annotations.

A QUESTION COMMONLY posed in different circles is: if we all refer to the same sacred texts of the Qur'ān and Sunnah for guidance, why are there so many differences between the schools of Islamic law (*madhāhib*)? In other words, why did the great jurists (*fuqahā'*) of Islām—such as the four main Imāms and their students—differ in their opinions and rulings? This work attempts to answer this very question, focusing on one aspect, namely: how different understandings of the ḥadīth literature influenced and shaped these differences in opinion. In addition, the author responds to some of the misgivings and objections which some people levy against these distinguished luminaries of Islām.

This valuable work is a must-read for students of ḥadīth and *fiqh*, as well as anyone wishing to gain a better understanding of the differences that occur between the various schools of Islamic law. It will alert the reader to the expertise of the jurist Imāms and the effort they exerted in deriving rulings from the Qur'ān and Sunnah. It will also create in him a state of serenity and trust towards the Imāms and their schools of law, which are followed by the vast majority of the Muslim Ummah.

"In benefitting from it my soul delighted and my heart was gladdened. Every teacher and student ought to study it, for it averts deviation and oppression and delivers from the criticism directed at the Imāms by those who harbour enmity towards them and those who are deprived [of good]."

—MAWĪĀNĀ MUḤAMMAD ZAKARĪYĀ AL-KĀNDAHĀWĪ

"I have derived from it some valuable benefits and call upon Allāh to give its author unceasing success, and increasing ascendancy, that he may refute those who have deviated from the clear path by calling people to confusion regarding the followed Imāms, who disregard the Imāms, and who undertake to tear apart the Ummah."

—SHAYKH 'ABD AL-FATTĀḤ ABŪ GHUDDAH

"A book I have heard many say is worthy of being inscribed in gold. Undoubtedly, a long awaited translation in English that will help to illuminate many minds."

—MUFTĪ ABDUR-RAHMAN IBN YUSUF MANGERA